

JAMES HAWKINS APLC

James R. Hawkins, Esq. (#192925)
Christina M. Lucio, Esq. (#253677)
9880 Research Drive, Suite 200
Irvine, CA 92618
Tel.:(949) 387-7200
Fax:(949) 387-6697
Email: James@jameshawkinsaplc.com
Email: Christina@jameshawkinsaplc.com

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

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE

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

Plaintiff,

vs.

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

Defendants .

CASE NO. 20STCV18190

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

**DECLARATION OF JAMES R.
HAWKINS IN SUPPORT OF MOTION
FOR FINAL APPROVAL OF CLASS
ACTION SETTLEMENT AND MOTION
FOR ATTORNEYS' FEES, COSTS, AND
INCENTIVE AWARD**

[Notice of Motion [Final Approval]; Notice of
Motion [Fees and Costs]; Declaration of
Charles Yniguez In Support of Motion for
Final Approval of Class Action Settlement;
Memorandum [Final Approval; Memorandum
[Fees and Costs]; [Proposed] Order filed
concurrently herewith]

Date: January 23, 2023

Time: 9:00 a.m.

Dept.: 6

Complaint Filed: May 8, 2020

FAC Filed: December 11, 2020

Trial Date: None

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DECLARATION OF JAMES HAWKINS

I, James Hawkins, declare as follows:

1. I am an individual over the age of 18. I am a partner at the law firm of James Hawkins, APLC. I am one of the attorneys of record for Plaintiff Charles Yniguez (hereinafter referred to as “Plaintiff” or “Class Representative”), who filed this action on behalf of himself and the Class Members as defined herein. I submit this declaration in support of Plaintiff’s Motion for Final Approval of Class Action Settlement and Plaintiff’s Motion for Attorneys’ Fees, Costs, and Incentive Award, which Plaintiff filed concurrently herewith, along with the supporting Memorandums of Points and Authorities. I have personal knowledge of the facts set forth below, and if called to testify regarding them, I could and would do so competently.

**THE COURT GRANTED PRELIMINARY APPROVAL OF THE CLASS ACTION
SETTLEMENT**

2. On May 8, 2020, Plaintiff Yniguez filed his class action complaint in the Superior Court of the State of California, for the County of Los Angeles (Case No. 20STCV18190) alleging claims for (1) failure to pay minimum wages; (2) failure to pay overtime wages; (3) failure to provide meal periods; (4) failure to permit rest breaks; (5) failure to provide accurate itemized wage statements; (6) failure to pay all wages due within the required time and upon separation of employment; and (7) violation of Business and Professions Code §§ 17200, *et seq.* (“Class Complaint”). Plaintiff filed his Complaint individually and on behalf of all other non-exempt employees who worked for Defendants in the State of California during the relevant period. (“Class Members”) The class action complaint also defined a subclass of putative class members who separated their employment from Defendants within three years prior to the filing of the action to the present and continuing. (“Waiting Time Subclass”)

3. Plaintiff Yniguez submitted a PAGA notice to the LWDA on May 7, 2020, in accordance with the requirements of Labor Code section 2699.3(a). The PAGA notice alleged that Airgas and Airgas Carbonic had violated the various California Labor Code sections alleged in his class action complaint.

4. On July 27, 2020, Plaintiff filed a PAGA complaint in the Superior Court of the State

1 of California, Los Angeles County, Case No. 20STCV28508, in which he alleged the following
2 causes of actions: (1) violation of California Labor Code sections 2698, et seq. (Private Attorney
3 General Act of 2004), which includes allegations of (a) failure to pay wages including overtime; (b)
4 failure to provide meal periods for every work period exceeding more than ten (10) hours per day
5 and failure to pay an additional hour's of pay or accurately pay an additional hour's of pay in lieu
6 of providing a meal period; (c) failure to provide rest breaks for every four hours or major fraction
7 thereof worked and failure to pay an additional hour's of pay or accurately pay an additional hour's
8 of pay in lieu of providing a rest period; (d) failure to pay all wages earned and owed upon separation
9 from Defendants ' employ; and (e) failure to provide accurate itemized wage statements
10 (hereinafter, "PAGA Complaint" or "PAGA Action").

11 5. On September 21, 2020, Airgas and Airgas Carbonic timely answered the class
12 action complaint with a general denial and asserted various affirmative defenses.

13 6. On September 30, 2020, Airgas and Airgas Carbonic similarly timely answered the
14 PAGA complaint with a general denial and various affirmative defenses. Shortly thereafter,
15 Defendants filed a motion to consolidate the two actions.

16 7. On November 30, 2020, the Parties stipulated that Plaintiff would dismiss the PAGA-
17 only case, Case No. 20STCV28508, and would amend his class action complaint to add his PAGA
18 claim to the lower-numbered class action.

19 8. On December 11, 2020, Plaintiff filed a First Amended Complaint ("FAC") to add
20 an eighth cause of action for civil penalties pursuant to the Private Attorneys' General Act of 2004,
21 Labor Code Section 2698, et seq. ("PAGA") to the class action complaint—effectively
22 consolidating the two actions. The separate PAGA action was dismissed on January 8, 2021.

23 9. Airgas filed an answer to the FAC on or about January 13, 2021. At all times,
24 Defendants disputed that it had violated California wage and hour law and, further, maintained that
25 Plaintiff's claims were not appropriate for class or representative adjudication for numerous reasons.

26 10. The Court granted preliminary approval of the Amended Joint Stipulation of Class
27 Action Settlement ("Settlement Agreement") on September 16, 2022. The Settlement Agreement
28 is attached hereto as **Exhibit 1**. Attached hereto as **Exhibit 2** is a true and correct copy of the

1 Court's Order granting the Motion for Preliminary Approval of the Settlement.

2 11. Defendants continue to deny, each and every material allegation, dispute, and claim
3 raised in the underlying actions. Defendants have at all times denied, and continue to deny, all of
4 these allegations, and denies any and all liability for Plaintiff's claims. Defendants further deny that
5 Plaintiff's allegations are appropriate for class, and/or representative treatment for any purpose other
6 than for settlement purposes only.

7 12. In connection with the Preliminary Approval Order, the Court conditionally certified
8 the following Settlement Class for settlement purposes only: all individuals who were employed by
9 Defendant Airgas USA, LLC or Defendant Airgas Carbonic in California in their Dry Ice Divisions
10 as non-exempt/hourly employees at any time from May 8, 2016 through the date of preliminary
11 approval by the court. (Ex. 2, Order, ¶2; Ex. 1, Agreement ¶¶ 7-8.)

12 13. The "Aggrieved Employees" are defined to include all individuals who were
13 employed by Airgas USA, LLC or Airgas Carbonic, Inc. in California in their Dry Ice Divisions as
14 non-exempt/hourly employees during the "PAGA Period" of May 7, 2019 to the date the Court
15 grants Preliminary Approval. (Ex. 1, Agreement, ¶ 2, 25.).

16 14. For the Court's ease in review, attached hereto as **Exhibit 3** is a true and correct copy
17 of the Declaration that I submitted in connection with the Motion for Preliminary Approval of the
18 Settlement in this case (the exhibits have been omitted).

19 15. For the Court's ease in review, attached hereto as **Exhibit 4** is a true and correct copy
20 of the first Supplemental Declaration I submitted in connection with the Motion for Preliminary
21 Approval of the Settlement in this case (the exhibits have been omitted).

22 16. The Court preliminarily approved the Settlement Agreement, and the Notice of
23 Pendency of Class Action Settlement and Final Hearing. Additionally, the Court further
24 preliminarily approved the formulas provided in the Settlement Agreement for calculating
25 individual settlement payments to the Class Members and the Aggrieved Employees using a
26 workweek based calculation. (See Exhibit 2, generally)

27 17. The Court also appointed CPT Group, Inc. as the settlement administrator. Since
28 then, CPT has worked diligently with Class Counsel and counsel for Defendant to efficiently

1 administer the Settlement. (Exhibit 2, ¶ 15.)

2 **THE GROSS SETTLEMENT AMOUNT INCREASED AND THE SETTLEMENT**
3 **ADMINISTRATOR HAS CARRIED OUT THE NOTICE PROCEDURES**

4 18. Based on preliminary calculations and the most recent summary provided by the
5 Administrator (attached at **Exhibit 5**), the Parties and the Settlement Administrator have
6 successfully delivered notice of the Court's Preliminary Approval Order and the Settlement to the
7 Class. I understand from CPT that after updating the Class List against the National Change of
8 Address Database maintained by the U.S. Postal Service, the Settlement Administrator mailed the
9 Class Notice in Spanish and English to 307 Class Members via First Class Mail. Notice Packets
10 were mailed to the 307 Class Members on or about October 13, 2022. Thus far, one notice has
11 remained undeliverable (i.e. Class Notices that were returned undeliverable with no updated
12 address from the skip trace and/or were returned undeliverable a second time). Thus, at this point,
13 it estimate that the Class Notice will successfully reach 99.6% of the Class (306/307 Class
14 members). Attached as **Exhibit 9** is a true and correct copy of the Notice Packet sent to Class
15 Members.

16 19. In my experience, there are always some Class Notices that, despite best efforts of
17 the Settlement Administrator, cannot be delivered to the Class Member for a variety of reasons.
18 Here, it appears that very few of the Class Notices will ultimately be undeliverable. I believe this
19 is an excellent result of successfully delivering Class Notices.

20 20. On or about October 3, 2022, counsel for Defendants provided CPT with the
21 contact information and data for each Class Member. Upon receipt of the data for the Class
22 from Defendants, the Settlement Administrator notified the Parties that the escalator
23 provision in paragraph 101 of the Settlement Agreement was triggered (as there were
24 approximately 307 members of the class, rather than the anticipated 272) and the Gross
25 Settlement Amount increased to approximately \$564,338.24. The Notice to the Class
26 Members was amended to reflect the increase in the Gross Settlement Amount. The Net
27 Settlement Amount is estimated to be \$276,725.42 exclusive of PAGA or \$289,225.42
28 inclusive of PAGA. The Net Settlement Amount is the Gross Settlement Amount less: (1)

1 Class Counsel's attorneys' fees (up to 1/3 of the Gross Settlement Amount); (2) Class
2 Counsel's costs and expenses not to exceed \$27,000.00 (to date, costs have totaled
3 \$24,035.10); (3) fees, costs, and expenses associated with a mutually agreed upon Settlement
4 Administrator to administer the settlement currently estimated at \$15,000.00; and (4)
5 Incentive Award to the Plaintiff (up to \$7,500).

6 21. As of the date of this filing, no Class Member has objected to the Settlement, and
7 CPT has received zero requests for exclusion resulting in 100% of Class Member participation. The
8 deadline to opt out or request exclusion from the Settlement is December 13, 2022. At the
9 completion of the notice period, CPT will provide Class Counsel with a declaration to be
10 filed with the Court regarding any requests for exclusion and objections to the Settlement
11 received.

12 22. The Court preliminarily approved up to \$15,000 from the Settlement to cover the
13 costs associated with CPT Group, Inc.'s work in administering the Settlement. It is anticipated that
14 CPT Group's costs and fees for the administration of the settlement will come out to a total of
15 \$15,000.00. I respectfully submit that I believe this sum is appropriate.

16 **THE SETTLEMENT IS FAIR, REASONABLE AND ADEQUATE**

17 23. Plaintiff and Defendant entered into the Settlement Agreement only after
18 conducting extensive investigation, discovery, exchanging voluminous documents and
19 participating in a day long adversarial mediation with experienced mediator Michael Dickstein.
20 The action did not settle at mediation, but in the months of negotiations post-mediation with the
21 assistance of Mediator Dickstein. Indeed, as detailed more extensively in the previously filed
22 Motion for Preliminary Approval and attached declarations, the Parties engaged in extensive
23 exchanges of information and informal and formal discovery through which Defendant provided a
24 considerable amount of documents and data, including Plaintiff's personnel file, time sheets,
25 earnings statements, and acknowledgements; employee demographic data; class size information;
26 hiring and termination dates; pay rates; a sampling of timecards and time history; a sampling of
27 earning statements; pay data and records; and Defendant's policies and procedures manuals which
28 covered a broad range of topics including, *inter alia*, employee clock-in policies and procedures,

1 attendance policies, meal periods/rest periods, overtime & premium pay, etc. Defendants also
2 provided substantial information concerning the total number of potential class members, the
3 payroll data at issue, and the applicable hourly rates, workweeks and pay periods, and other
4 summary data related to the alleged class. The Parties shared damages information with the
5 mediator and each other for purposes of reaching a settlement. Plaintiff also engaged an expert to
6 review the time and pay data produced and assist with the creation of a damages model. Thus, the
7 Settlement is the product of arms-length negotiations assisted by an experienced wage and hour
8 mediator.

9 24. The Parties have conducted themselves in informed, good faith arms-length
10 negotiations after conducting discovery and exchanging extensive evidence and information about
11 the claims and defenses of this lawsuit through informal discovery, and engaging in pre-mediation
12 discussions, telephone conferences, and correspondence all aimed at settling their dispute. The
13 document and data exchanges allowed Plaintiff's Counsel to fully assess the nature and magnitude
14 of the claims being settled, as well as the impediments to recovery, and ultimately enabled Plaintiff's
15 Counsel so as to make an independent assessment of the reasonableness of the settlement's terms.

16 25. In summary, Class Counsel performed a thorough investigation into the claims at
17 issue, which included: (1) determining Plaintiff's suitability as private attorney general and class
18 representative through interviews, investigations, and analyses of his employment files and related
19 records; (2) evaluating all of Plaintiff's potential representative and class claims; (3) engaging in
20 formal and informal discovery, which included production of relevant data; Defendant's
21 timekeeping, meal period and rest break policies; documents evidencing Defendant's handbooks,
22 policies and procedures for managing payment for all hours worked, meal periods and rest breaks;
23 and other relevant information, including Plaintiff's personnel and payroll file; (4) exchanging
24 documents, data, and information based on time and pay records for the putative Class Members to
25 determine the number of current and former putative class members who worked during the relevant
26 time period, the total number of workweeks at issue, the average hourly rate for the putative class
27 and aggrieved employees; (5) researching similar wage and hour class actions as to the claims
28 brought, the nature of the positions, and the type of employer; (6) analyzing employees' time, pay,

1 and wage records and working with an expert to create a damages/liability model; (7) reviewing
2 Defendant's employment policies and practices; (8) researching settlements in similar cases; (9)
3 evaluating Plaintiff's claims and estimating Defendant's potential liability for purposes of
4 settlement; (10) drafting the mediation brief; and (11) participating in the mediation.

5 26. By engaging in such a thorough investigation and evaluation of Plaintiff's claims,
6 Class Counsel can opine that the Settlement, for the consideration and on the terms set forth in the
7 Settlement Agreement, is fair, reasonable, an adequate, and is in the best interests of Class Members
8 in light of all known facts and circumstances, including the risk of significant delay and uncertainty
9 associated with litigation, and various defenses asserted by Defendant.

10 27. Indeed, based on my experience, I believe that the proposed Settlement is fair,
11 reasonable and adequate and represents a great result for the Class Members. As detailed in my
12 Declarations in Support of Preliminary Approval (**Exhibits 3 and 4**), although Plaintiff and Class
13 Counsel compromised to achieve the Settlement, the compromise is extremely fair, reasonable and
14 adequate when compared to the realistic value of the class claims and considering the substantial
15 risks involved in pursuing further litigation including the possibility of appeals by either party that
16 would serve to increase the amount of time in which Class Members could possibly see some
17 benefits.

18 28. When we considered the substantial risks involved in pursuing further litigation, we
19 also considered the probability of getting the action certified as a class action and maintaining the
20 class action status through trial. Throughout the action, Defendants have challenged whether
21 Plaintiff can prove commonality and whether a class action trial was manageable under the
22 standards set forth in *Duran v. U.S. Bank Nat'l Assn.* (2014) 59 Cal. 4th 1. In addition, we
23 considered the likelihood of class action recovery at trial after analyzing the merits of Defendants'
24 legal defenses and the current state of the law regarding certification and establishing common
25 questions of facts, including the decision by the California Supreme Court in *Brinker Restaurant*
26 *Corp. v. Superior Court*. All these considered, I believe the Settlement, if finally approved, will
27 provide the Class a fair, reasonable and adequate value for their claims.

28 29. While Plaintiff believes in the strength of his allegations, there is no certainty she

1 could prove sufficient systematic violations at Defendant's hands to certify the Class. Defendants
2 steadfastly contend that it complied at all times with the California Labor Code and the applicable
3 IWC Wage Orders. Indeed, at the time this case was brought, the result was far from certain.
4 Defendants also asserted numerous defenses to the case that created difficulties with proof and
5 complex legal issues for Class Counsel to overcome. For example, Defendant contends that it
6 complied in good faith with wage and hour laws and has dealt legally and fairly with Plaintiff and
7 putative class members. Thus, even if Plaintiff were to obtain class certification, liability was
8 by no means a foregone conclusion.

9 30. To be clear, Defendants have categorically denied all of the above-mentioned
10 assertions and allegations raised in and in support of the claims in the Action. Indeed, Defendants
11 have denied and continue to deny each, and all of the allegations, claims, and contentions alleged
12 by the Plaintiff in the Action. Defendants have expressly denied and continues to deny all charges
13 of wrongdoing or liability against it arising out of any of the conduct, statements, acts or omissions
14 alleged in the Action. Defendants contend that they complied in good faith with wage and hour laws
15 and have dealt legally and fairly with Plaintiff and putative class members. Defendants further deny
16 that, for any purpose other than settling the Action, these claims are appropriate for class or
17 representative treatment. To date, no class has been certified and no court has made any findings
18 that Defendants engaged in any wrongdoing or in any wrongful conduct, or otherwise acted
19 improperly or in violation of any law, rule or regulation with respect to any of the issues presented
20 in this action. Nonetheless, Defendants have concluded that further conduct of the action would be
21 protracted and expensive and have therefore determined that it is desirable that the Action be fully
22 and finally settled in the manner and upon the terms and conditions of the Settlement Agreement.

23 31. I continue to believe that the consideration and terms set forth in the Settlement
24 Agreement are fair, reasonable, and adequate and are in the best interests of the Settlement
25 Class in light of all known facts and circumstances, including the various defenses asserted
26 by Defendants, and numerous potential appellate issues. In addition, the prospect of a
27 potential adverse summary judgment ruling, as well as the uncertainty of class certification,
28 the difficulties of complex litigation, the lengthy process of establishing specific damages

1 and various possible delays and appeals, were also carefully considered in agreeing to the
2 proposed Settlement. As detailed in my preliminary approval declaration, there is a
3 significant chance that continued litigation could result in the Class obtaining no recovery
4 at all if the trier of fact accepted Defendant's contention that they maintained compliant
5 policies, paid at least minimum wages for all hours worked, paid all overtime wages,
6 provided timely meal and rest breaks or compensation in lieu thereof, provided accurate
7 itemized wage statements, and timely paid wages upon termination in Defendant's favor, or
8 that any alleged violations, to the extent Plaintiff can prove any, are due solely to individual
9 preference. In addition to the substantial risks and uncertainty inherent in continued
10 litigation, Plaintiff and Defendants face the certainty that further litigation-potentially
11 through trial and appeals-would be expensive and time consuming. Therefore, the proposed
12 Settlement is both fair and reasonable in light of Defendants' asserted legal and factual
13 grounds for defending against the putative class claims and the risks of not obtaining and/or
14 maintaining class certification through the trial of the action and after any appeals.

15 32. Ultimately, we determined an appropriate range of recovery for settlement
16 purposes by offsetting Defendant's maximum theoretical liability by: (i) the strength of the
17 defenses to the merits of Plaintiff's claims; (ii) the risk of class certification being denied;
18 (iii) the risk of losing on any of a number of dispositive motions that could have been brought
19 between certification and trial (e.g., motions to decertify the class, motions for summary
20 judgment, and/or motions in limine) that might have eliminated all or some of Plaintiff's
21 claims, or barred evidence/testimony in support of the claims; (iv) the risk of losing at trial;
22 (v) the chances of a favorable verdict being reversed on appeal; and (vi) the difficulties
23 attendant to collecting on a judgment.

24 33. We respectfully submit that a settlement amounting to approximately 37.3%
25 of the estimated realistic liability for the thrust of Plaintiff's class claims, is fair, reasonable,
26 and adequate in view of the odds of: (i) overcoming Defendants' arguments and evidence
27 that it properly provided meal and rest breaks, and properly paid for all hours of work; (ii)
28 the obstacles inherent in satisfying the requirements to certify a class and satisfy

1 manageability requirements; (iii) the challenges of proving the elements of each cause of
2 action; (iv) the derivative nature of many of the claims; (v) the expenses of further litigation;
3 and (vi) the recovery rate, even if Plaintiff were to prevail, after years of continued and costly
4 litigation.

5 34. We respectfully submit that the Class Representative Incentive Award in the
6 amount of \$7,500.00 to Plaintiff, the attorneys' fees of one-third of the common fund or
7 \$188,112.75, and costs not to exceed \$27,000 to Class Counsel given the amount of work
8 and effort by the Class Representative and Class Counsel to achieve a great result are also
9 fair and reasonable. The specific amounts associated with each of these payments were
10 disclosed clearly in the Class Notice provided to the Class Members, and, to date, none of
11 the Class Members have objected to these terms.

12 **THE CLASS REPRESENTATIVE INCENTIVE AWARD IS JUSTIFIED**

13 35. Under the terms of the Settlement Agreement, the Class Representative seeks
14 an incentive award in the amount of \$7,500 for his service in filing and prosecuting this class
15 action on behalf of the Class.

16 36. I strongly support the incentive award to the Class Representative and
17 Defendants do not oppose the amount requested. Such amount was reached as the product
18 of arm's length negotiations. Thus, I believe that the incentive enhancement award to
19 Plaintiff as Class Representative is justified, extremely fair and warranted. Plaintiff's
20 assistance to Class Counsel and services to the Class have been invaluable. (See generally,
21 Declaration of Charles Yniguez, attached as **Exhibit 8** hereto).

22 37. By coming forward and pursuing this class action lawsuit that, in this
23 information age, can easily be discovered by prospective employers demonstrates that
24 Plaintiff has placed the interest of the Class above his own. Additionally, Plaintiff made the
25 decision from the very beginning of the litigation to protect the interest of the Class by not
26 wavering from his decision to prosecute and settle the claims on behalf of putative class
27 members for a settlement that was in the best interests of the Class. I do not believe that
28 Plaintiff has any interests that are adverse or antagonistic to the Class Members' interests.

1 38. The Class Representative was a crucial participant in the prosecution of this
2 litigation. Plaintiff worked closely with me and my firm in all aspects of the litigation in this
3 case. He provided an extraordinary amount of factual information necessary for the
4 prosecution and settlement of the class claims. This information proved invaluable in our
5 settlement discussions. Plaintiff also spent a significant amount of time searching for and
6 producing documents in the case and reviewing and interpreting the voluminous documents
7 produced by Defendants. Plaintiff actively participated in this litigation during all stages
8 including discovery, being available during mediation for negotiation of the Settlement, and
9 throughout the settlement approval process.

10 39. Plaintiff also agreed to enter into a broader release of claims against
11 Defendants as opposed to the narrowly drafted release for the other Class Members. There
12 is additional value associated with his general release of claims, specifically as it relates to
13 her individual claims against Defendants.

14 40. Plaintiff took on significant risks, including the potential that the lawsuit may
15 affect his ability to obtain future employment as well as the risk of paying an award of costs
16 to Defendant if they were not successful in litigating his claims.

17 41. Based upon preliminary calculations from the Administrator, I understand that
18 the average estimated payment to Class Members is \$942.07 and the highest estimated
19 payment is \$3,103.06.

20 42. Plaintiff has been an exceptional Class Representative and the Class has
21 benefited immensely from his services. The enhancement payment is reasonable in light of
22 the time and effort Plaintiff has spent on this litigation over the past two and one-half years
23 and the excellent result he obtained on behalf of the Class. Thus, I submit the incentive award
24 to Plaintiff is appropriate and justified as part of the overall Settlement and warrants final
25 approval.

26 **THE ATTORNEYS' FEES AND LITIGATION COSTS CLASS COUNSEL**
27 **SEEK ARE REASONABLE, FAIR AND ADEQUATE**

28 43. In accordance with the terms of the Settlement Agreement, Class Counsel
seeks an award of attorneys' fees in the amount of \$188,112.75 (one-third of the Gross

1 Settlement Amount) and reimbursement for actual and necessary costs of \$24,035.10
2 Defendants do not oppose these amounts.

3 44. Class Counsel has obtained significant recovery for the Class and secured a
4 Gross Settlement Amount of \$564,338.24 for the settlement of the claims alleged in the
5 complaint. In my opinion, this represents an excellent result, considering all the risk of
6 continued litigation and the likelihood of an appeal if class certification was granted in this
7 case.

8 45. This class action involved complex legal and factual issues, and many hurdles
9 to success. Notably, Class Counsel obtained a significant Settlement on a class-wide basis
10 for claims that Defendant maintained required highly individualized inquiries and which
11 could not be certified because any deviations from Defendant's alleged facially compliant
12 policies were a matter of preference. Class Counsel provided skillful representation in
13 successfully navigating these hurdles so as to convince Defendants to settle the action.

14 46. The number of hours Class Counsel spent in this class action and the requested
15 hourly rate are reasonable and justify the granting of final approval to the Settlement and
16 granting Class Counsel's Motion for an Award of Attorneys' Fees, Costs, and Class
17 Representative Incentive Payment.

18 47. Class Counsel's representation of Plaintiff and the Class Members was
19 entirely contingent on winning their wage and hour claims and collecting an award of
20 attorneys' fees. my firm would only collect attorneys' fees if we were successful in
21 prosecuting the claims on their behalf. To date, Class Counsel has invested approximately
22 242 attorney hours litigating this matter. To represent the Class on a contingent fee basis,
23 Class Counsel had to devote the necessary time and resources to this contingent case. In so
24 doing, Class Counsel gave up the hourly work that a firm can bank on for the risky contingent
25 fee work in this case which could have paid Class Counsel nothing.

26 48. Class Counsel's skill and experience support their hourly rates ranging from
27 \$550 to \$900, which are well within the rates typically approved in wage and hour class
28 action litigation in California and have been approved by numerous state and federal courts
in California.

1 49. We respectfully submit the fees provision of the Settlement is fair and
2 reasonable both when cross-checked under the lodestar and common fund method. The
3 total billable hours that I and my firm have invested and will invest in prosecuting this
4 action, should the settlement be approved by this honorable Court, is substantial. Only a
5 small multiplier is required to achieve the requested fee award. I respectfully submit that
6 our fees and costs request is fair and reasonable because we have expended substantial
7 time and effort in achieving the proposed Settlement, including the following tasks:
8 investigating the factual and legal basis of the action prior to filing and after filing the
9 action; analyzing documents provided by Plaintiff, including time and payroll documents;
10 investigating Defendant's organization from publicly available information; preparing the
11 Complaint; day to day case management and development; preparing and reviewing
12 formal and informal discovery; engaging in meet and confer efforts regarding discovery;
13 reviewing and analyzing hundreds of pages of documents, including a significant random
14 sampling of class-wide time keeping and payroll information; conversations with defense
15 counsel regarding the claims alleged in this action, the information needed for analysis,
16 and engaging in early settlement efforts; preparing complex damages analysis and
17 extrapolation of damages to the entire Class; working with an expert to prepare for
18 mediation; preparing detailed analysis of the claims and defenses and conducting extensive
19 research in connection with the same; mediation due diligence; drafting the mediation
20 brief; researching other settlements in similar circumstances; preparing for and attending a
21 full day mediation with Michael Dickstein; negotiating and finalizing a Settlement with
22 Defendant's Counsel after the mediation; soliciting proposals from settlement
23 administrators; drafting the preliminary approval motion and supporting papers, drafting
24 supplemental documents requested by the Court, working with an expert in connection
25 with the evidentiary presentation; preparing the final approval motion and related
26 declarations; monitoring settlement administration; working the settlement administrator;
27 and preparing the motion for attorneys' fees and costs. As such, I respectfully submit that a
28 lodestar cross-check supports the reasonableness of the requested fees, as little multiplier
need be applied to reach the requested fee allocation. With this Motion, we have submitted

1 billing records at **Exhibit 7**.

2 50. I am the Founding Partner at James Hawkins, APLC and have devoted
3 approximately 104 hours in prosecuting this case on behalf of Plaintiff and the Class. My
4 hourly rate is \$900 per hour. The number of hours I have expended for work performed and
5 the corresponding attorney's fees of \$93,780.00 are reasonable and necessary. I graduated
6 from the University of California, Los Angeles in 1993 and received my law degree from
7 Whittier Law School in 1997. I was also a full-time Judicial Extern for United States District
8 Judge Consuelo B. Marshall and the United States Attorney's Office. I have been a member
9 of the State Bar of California since 1997. From 1997 to 2007, I was a named partner at
10 Hawkins & Sofonio, a law firm based out of Irvine, California. At Hawkins & Sofonio, I
11 pioneered the employment department litigating plaintiff related employment issues such as
12 wrongful termination, age discrimination, disability, wage and hour, and sexual harassment
13 claims. Through the success and experience I obtained litigating employment related
14 matters, I commenced litigating wage and hour class actions in 2002. Since then, I have
15 spent the vast majority of my practice litigating Wage and Hour Class Actions. In 2007, I
16 incorporated my wage and hour class action practice as James Hawkins, APLC. Since its
17 inception, this law firm has been exclusively involved in class action and complex litigation.
18 In 2009, I opened an additional office in Miami, Florida, prosecuting wage and hour class
19 actions. Since 2002, I have been lead or co-lead counsel in hundreds of wage and hour class
20 actions. I have also detailed my experience in the attached declarations at **Exhibit 3 and**
21 **Exhibit 4**.

22 51. Christina Lucio is Of Counsel to James Hawkins, APLC. She has handled
23 the day to day matters on this case since February 2022. She devoted 44 hours in
24 prosecuting the Action. Such hours were reasonable and necessary. Ms. Lucio graduated
25 from the University of California, Riverside in 2003 and received her law degree from the
26 University of Southern California, Gould School of Law (USC Law School) in 2007. She
27 has been a member of the State Bar of California since 2007 and is a member of the Labor
28 and Employment Law section of the California Bar Association and American Bar

1 Association. She was selected as a “Rising Star” for 2015 by Super Lawyers Magazine.
2 Ms. Lucio focuses primarily on employment law including wrongful termination,
3 discrimination, retaliation, wage and hour violations (individual and class action), and
4 sexual harassment claims. In recent years, a substantial part of her practice has been
5 focused on class actions, including wage and hour litigation. Ms. Lucio’s hourly rate is
6 \$650 per hour. The number of hours Ms. Lucio expended for work performed and the
7 corresponding attorney’s fees of \$28,600.00 are reasonable and necessary.

8 52. Mitchell Murray is Of Counsel to James Hawkins APLC. Mr. Murray is a
9 2007 graduate of the University of California, San Diego and 2012 graduate of California
10 Western School of Law. He was admitted to the State Bar of California in 2012. He is a
11 member of the Consumers Attorneys of San Diego. He was selected as a “Rising Star” in
12 2019 by Super Lawyers Magazine. Mr. Murray’s legal experience has focused primarily
13 on employment law. Since 2016, he has focused his practice in the area of wage and hour
14 class action. Mr. Murray has dedicated 9.4 hours in prosecuting this action on behalf of
15 Plaintiff and the class. Mr. Murray’s hourly rate is \$550.00 per hour. The number of hours
16 expended by Mr. Murray for work performed and the corresponding attorney’s fees of
17 \$5,170.00 are reasonable and necessary.

18 53. Samantha Smith is no longer with James Hawkins APLC, but during her
19 time with our firm, she achieved an excellent result for our clients. She was a Senior
20 Associate at James Hawkins, APLC. She was admitted to the California Bar in December
21 of 2004. She received a J.D. from the University of California, Hastings College of the
22 Law and my Bachelor of Arts from the University of California, Davis. Her experience
23 includes successful work on class action appeals, class certification motions and class
24 settlements. *See, e.g., Birdsell v. Geo Corp., Inc.*, Case No. CIV DS1613061 (San
25 Bernardino Superior Court) (data breach); *Blue Diamond Growers Product Labeling*
26 *Cases*, JCCP No. 4822 (Los Angeles County Superior Court) (false advertising of Blue
27 Diamond food products); *Adam vs. eHealth, Inc.*, Case No. 17CV309050 (Santa Clara
28 Superior Court) (employee data breach); *Overton v. Armour-Eckrich Meats, LLC*, Case

No. CIVDS 1501325 (San Bernardino County Superior Court) (unpaid wages, meal period and rest break claims, and PAGA violations for non-exempt employees); *DeLeon et al. v. Westlake Services, LLC*, Case No. BC 526750 (Los Angeles County Superior Court) (unpaid overtime, meal period and rest break claims for call center employees); *Sawyer v. Retail Data, LLC*, Case No. 30-2014-00753767-CU-OE-CXC (Orange County Superior Court) (unpaid wage and rest break claims for piece rate workers); *Nguyen v. Pharmerica Corporation et al.*, Case No. 30-2014-00716072-CU-OE-CXC (Orange County Superior Court) (unpaid wages and unreimbursed expenses for pharmacists); *Laumea v. Performance Food Group, Inc.*, Case No. CIVDS1407509 (San Bernardino Superior Court) (unpaid wages, meal and rest break claims for non-exempt employees); *Durroh v. East West Bank*, Case No. BC528860 (Los Angeles Superior Court) (overtime claims for failure to include bonuses in the regular rate of pay for bank workers); *Gonzalez et al. v. SFFI Company, Inc., et al.*, Case No. CIVDS1504287 (San Bernardino Superior Court) (unpaid wages, meal period and rest break claims for non-exempt employees). She was the day to day handling attorney on this matter until February 2022. Ms. Smith dedicated 27.5 hours in prosecuting this action on behalf of Plaintiff and the class. Her hourly rate is \$750.00 per hour. The number of hours expended by Ms. Smith for work performed and the corresponding attorney's fees of \$20,812.50 are reasonable and necessary.

54. Based on those hours (and those incurred by paralegals), my firm has incurred the following attorney lodestar hours of approximately **\$159,862.50** in attorneys' fees, summarized below:

ATTORNEY	HOURS	HOURLY RATE	TOTAL
James R. Hawkins	104.20	\$900.00	\$93,780.00
Christina M. Lucio	44.00	\$650.00	\$28,600.00
Mitchell J. Murray	9.40	\$550.00	\$5,170.00
Samantha A. Smith	27.75	\$750.00	\$20,812.50

Paralegal (Melissa Whitson, Camille Baylis, and Michael Cipriano)	57.50	\$200.00	\$11,500.00
Total	242.85		\$159,862.50

55. In addition to the requested attorneys' fees, our office has expended approximately \$24,035.10 in costs (preliminarily approved not to exceed \$27,000) in prosecuting this action, including fees associated with a full-day mediation, filing fees and service charges, expert costs, legal research costs, and copying fees which are normally billed to and paid by the client. These costs have been necessary costs associated with the prosecution of this important matter. I respectfully request that the Court grant the request for reimbursement of these costs in accordance with the Settlement Agreement. (See **Exhibit 6, Cost Detail Report**).

56. The hourly rates charged by JHAPLC are in line with the prevailing rates of attorneys in the local legal community for similar work and, if this were a commercial matter, these are the charges that would be made and presented to the client. Similar hourly rates have been approved by the California Superior Courts and the United States District Courts of California. See, e.g., *Vigueras v. Red Robin Int'l (C.D.Cal. Dec. 2, 2020, No. SACV 17-1422 JVS (DFMx))* 2020 U.S. Dist. LEXIS 262135, at *15.)(finding James Hawkins APLC's attorneys' rates consistent with their experience and the prevailing rates in the community).

57. In a complex action such as this, we respectfully submit that the proposed attorneys' fees are, at the very least, on the low side of the market rate for contingency fees. The reasonableness of Class Counsel's hourly rates is further confirmed by comparing such rates with the rates of comparable counsel practicing complex and class litigation as detailed in the National Law Journal 2011 Billing Survey. (See *Zest IP Holdings, LLC v. Implant Direct MFG., LLC*, 2014 U.S. Dist. LEXIS 167563 (S.D. Cal. 2014) (finding that "Mayer Brown's \$775 average billing rate for partners" and "Mayer Brown's \$543 average associate billing rate" are reasonable rates when compared within

1 21 other firms practicing in the Southern District of California)). Numerous California
2 firms provided their hourly billing rates in connection with a survey conducted by the
3 National Law Journal. Of these California law firms, ten regularly charge hourly rates of
4 \$660, \$795, \$850, and even \$980 per hour.

5 58. Class Counsel respectfully requests the Court award its fees in accordance
6 with the percentage of the common fund approach, based upon a reasonable contingency
7 fee on the Settlement Amount. (*See Laffitte v. Robert Half International, Inc.* (2016) 1 Cal.
8 5th 480). The total billable hours Class Counsel has invested and will continue to invest in
9 prosecution of this action, should they be approved by the Court, have been substantial. As
10 detailed above, Class Counsel has spent approximately 242 hours over two and a half years
11 prosecuting this case. Plaintiff and Class Counsel respectfully submit the fees provision of
12 the Settlement is fair and can be cross-checked for reasonableness under lodestar.

13 59. My firm has been the only counsel to represent Plaintiff and the Class in this
14 matter, and we have borne the entire risk and cost of this litigation on a pure contingency
15 basis. The issues and arguments Class Counsel has encountered and overcome in arriving
16 at the parties' negotiated settlement terms were also many and complex and required
17 skillful advocacy that can arise only out of experience, professional perspective, and
18 success. Such claims are complex, evidence intensive, and nuanced, and can be very
19 challenging to certify. The Settlement was only possible because Class Counsel was able
20 to convince Defendant that Plaintiff could prevail on their motion for class certification
21 and other disputed legal issues regarding liability as well as prove damages at trial.

22 60. To date, Class Counsel has not received any compensation and expended
23 litigation costs on behalf of the Class. Class action contingency cases are inherently risky.
24 Upon retention, counsel makes a commitment to litigate the case through trial. These types
25 of cases can take years, hundreds of hours of work and enormous amount of money. The
26 risks involved coupled with the contingency basis of the case further support Class Counsel's
27 request for attorneys' fees and costs.
28

1 61. In sum, despite the complexity of the case, Class Counsel has, through the
2 investment of substantial effort and the resources of my law firm, been able to secure an
3 outstanding settlement on behalf of the Class. Plaintiff would have faced substantial legal
4 and factual obstacles in demonstrating that class certification was appropriate. Plaintiff
5 would also have been required to establish a significant amount of witness testimony, pattern
6 and practice evidence, statistical evidence, sampling evidence, expert testimony, and other
7 evidence in order to present their case both at the class certification stage and trial.
8 Defendant has vigorously contested liability, the amount of claimed damages, and the
9 propriety of class certification, and would have continued to do so through trial. Class
10 Counsel's prior experiences allowed us to competently evaluate the claims, settlement
11 versus trial on a fully informed basis, and the viability of Defendant's defenses. As such, we
12 respectfully submit the Court should grant the motion for Attorneys' Fees, Costs and
13 Incentive Awards as requested.

14 62. Despite the complexity of the case, Class Counsel has, through the investment
15 of substantial effort and the resources of my law firm been able to secure an outstanding
16 settlement on behalf of the Settlement Class. Plaintiff would have faced substantial legal and
17 factual obstacles in demonstrating that class certification was appropriate. Plaintiff would
18 also have been required to establish a significant amount of witness testimony, pattern and
19 practice evidence, statistical evidence, sampling evidence, expert testimony, and other
20 evidence in order to present their case both at the class certification stage and trial.
21 Defendants vigorously contested liability, the amount of claimed damages, and the propriety
22 of class certification, and would have continued to do so through trial. Accordingly, I believe
23 the Settlement to be fair, reasonable, and adequate and in the best interests of the Settlement
24 Class. The fairness and adequacy of the Settlement is confirmed by all known facts and
25 circumstances, including the risk of significant delay and uncertainty associated with
26 litigation, the various defenses asserted by Defendant, and numerous potential appellate issues.

27 I declare under penalty of perjury that the foregoing is true and correct. Executed on
28 November 14, 2022 at Irvine, California.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28


James R. Hawkins

EXHIBIT 1

1 CHERYL D. ORR (SBN 143196)
2 cheryl.orr@faegredrinker.com
3 FAEGRE DRINKER BIDDLE & REATH LLP
4 Four Embarcadero Center, 27th Floor
5 San Francisco, California 94111
6 Telephone: +1 415 591 7500
7 Facsimile: +1 415 591 7510

8 KRISTIN M. HALSING (SBN 318602)
9 kristin.halsing@faegredrinker.com
10 FAEGRE DRINKER BIDDLE & REATH LLP
11 1800 Century Park East, Suite 1500
12 Los Angeles, California 90067
13 Telephone: +1 310 203 4000
14 Facsimile: +1 310 229 1285

15 Attorneys for Defendant
16 AIRGAS USA, LLC

17 SUPERIOR COURT OF THE STATE OF CALIFORNIA
18 COUNTY OF LOS ANGELES

19 CHARLES YNIGUEZ, individually and on
20 behalf of all others similarly situated,

21 Plaintiff,

22 v.

23 AIRGAS USA, LLC, a Delaware limited
24 liability corporation; AIRGAS CARBONIC,
25 INC., a Delaware corporation; and DOES 1
26 through 20, inclusive,

27 Defendants.

Case No. 20STCV18190

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

**AMENDED JOINT STIPULATION OF
CLASS ACTION SETTLEMENT**

Complaint Filed: May 8, 2020
FAC Filed: December 11, 2020
Trial Date: None

1 This Amended Joint Stipulation of Class and Representative Action Settlement
2 (“Settlement” or “Settlement Agreement”) is made and entered into by and between Plaintiff
3 Charles Yniguez (“Plaintiff” or “Yniguez”), individually, and on behalf of all others similarly
4 situated and other aggrieved employees, and Defendant Airgas USA, LLC (“Airgas” or
5 “Defendant”) (collectively, Plaintiff and Defendant are referred to herein as the “Parties”).

6 DEFINITIONS

7 The following definitions are applicable to this Settlement Agreement; definitions
8 contained elsewhere in this Settlement Agreement will also be effective:

9 1. “Action” means the action filed by Plaintiff against Defendant and Airgas
10 Carbonic, Inc. (“Airgas Carbonic”), currently pending in the Los Angeles County Superior Court,
11 entitled *Yniguez v. Airgas USA, LLC*, Case No. 20STCV18190.

12 2. “Aggrieved Employees” means all individuals who were employed by Airgas or
13 Airgas Carbonic, Inc. (“Airgas Carbonic”) in California in their Dry Ice Divisions as non-
14 exempt/hourly employees during the PAGA Period, as defined below.

15 3. “Attorneys’ Fees and Costs” means attorneys’ fees and out-of-pocket litigation
16 expenses agreed upon by the Parties and approved by the Court for Class Counsel’s litigation and
17 resolution of the Action, as well as all costs incurred and to be incurred by Class Counsel in the
18 Action and approved by the Court, including but not limited to, costs associated with
19 documenting the Settlement, providing any notices required as part of the Settlement or Court
20 order, securing the Court’s approval of the Settlement, administering the Settlement, obtaining
21 entry of the Dismissal terminating the Action, and expenses for any experts. In connection with
22 the settlement of the Action, Class Counsel will request attorneys’ fees not in excess of 33.3
23 percent (33.3%) of the Gross Settlement Amount (estimated One Hundred and Sixty-Six
24 Thousand, Five Hundred Dollars (\$166,500)). Defendant has agreed not to oppose Class
25 Counsel’s request for fees and reimbursement of costs as set forth above. However, a ruling by
26 the Court to award Class Counsel amounts less than the amounts stated above shall not be a basis
27 for Plaintiff or Class Counsel to rescind or withdraw from this Settlement, and any such
28

1 difference will remain in the Gross Settlement Amount and will be available to the Class
2 Members.

3 4. "Class Claims" means the First Through Seventh Causes of Action in the First
4 Amended Complaint (and corresponding requests for relief) asserted by Plaintiff on behalf of
5 himself and the Class.

6 5. "Class Counsel" and/or "Plaintiff's Counsel" means James Hawkins and Christina
7 M. Lucio, James Hawkins APLC.

8 6. "Class List" means a complete list of all Class Members that Defendant will
9 diligently and in good faith compile from its records and provide to the Settlement Administrator
10 within fifteen (15) business days after Preliminary Approval of this Settlement Agreement by the
11 Court. The Class List will be formatted in Microsoft Office Excel, encrypted, and password
12 protected, and will include: (i) each Class Member's full name; (ii) last known mailing address
13 and telephone number; (iii) Social Security number; (iv) each Class Member's dates of
14 employment with Airgas or Airgas Carbonic; (v) the respective number of Qualifying
15 Workweeks that each Class Member worked during the Class Period; and (vii) the respective
16 number of PAGA Qualifying Workweeks that each Aggrieved Employee worked during the
17 PAGA Period. At no time during the Settlement process will any Class Member's address, Social
18 Security number, or telephone number be filed with the Court, except under seal as may be
19 ordered.

20 7. "Class Member(s)" or "Class" means all individuals who were employed by
21 Defendant or Defendant Airgas Carbonic in California in their Dry Ice Divisions as non-
22 exempt/hourly employees during the applicable Class Period, as defined below.

23 8. "Class Period" means the period between May 8, 2016 and the later of (a) the Date
24 of Preliminary Approval, and (b) 90 days from November 3, 2021.

25 9. "Complaint" means Plaintiff's Complaint, filed on or about May 8, 2020 in Los
26 Angeles County Superior Court.

27 10. "Court" means Judge Elihu M. Berle and/or Los Angeles County Superior Court
28 or any other court exercising jurisdiction over the Settlement.

1 11. “Effective Date” means the date on which the Judgment becomes a Final
2 Judgment.

3 12. “Final Approval/Settlement Fairness Hearing” means the hearing at which the
4 Court considers whether to approve the Settlement and to enter Judgment.

5 13. “Final Judgment” means the latest of: (a) the date of final affirmance on an appeal
6 of the Judgment; (b) the date of final dismissal with prejudice of the last pending appeal from the
7 Judgment; or (c) if no appeal is filed, the expiration date of the time for the filing or noticing of
8 any form of valid appeal from the Judgment (*i.e.*, 60 days after the entry of judgment, pursuant to
9 California Rule of Court 8.104 and California Code of Civil Procedure section 904.1). The Parties
10 intend that the final approval order will encompass an order entering judgment.

11 14. “First Amended Complaint” means Plaintiff’s First Amended Complaint, filed on
12 or about December 11, 2020 in Los Angeles County Superior Court. The term “First Amended
13 Complaint” also includes Plaintiff’s letter to the California Labor and Workforce Development
14 Agency (“LWDA”) dated May 7, 2020, which is referenced in Paragraph 87 of the First
15 Amended Complaint.

16 15. “Gross Settlement Amount” means Five Hundred Thousand Dollars
17 (\$500,000.00), to be paid by Defendant in full satisfaction of all claims arising from the Action
18 which includes Individual Settlement Payments to Participating Class Members and Individual
19 PAGA Payments to Aggrieved Employees; the Incentive Award to Plaintiff; Attorneys’ Fees and
20 Costs to Class Counsel as described above at Paragraph 3; interest; Settlement Administration
21 Costs to the Settlement Administrator; the Participating Class Members’ share of employment
22 taxes; the LWDA Payment; and all other costs associated with the settlement. This Gross
23 Settlement Amount has been agreed to by Plaintiff and Defendant based on the aggregation of the
24 agreed-upon settlement value of individual claims. In no event will Defendant be liable for more
25 than the Gross Settlement Amount except as set forth in Paragraph 101; however, Defendant shall
26 pay all employer-side payroll taxes with funds outside of the Gross Settlement Amount. There
27 will be no reversion of the Gross Settlement Amount to Defendant.
28

1 16. “Incentive Award to Plaintiff” means the amount to be paid from the Gross
2 Settlement Amount to Plaintiff in exchange for his service to the Class Members and for
3 executing a general release. Plaintiff will request, and Defendant will not oppose, up to Seven
4 Thousand and Five Hundred Dollars (\$7,500.00) as an Incentive Award. A ruling by the Court to
5 award Plaintiff an amount less than the requested amount stated above shall not be a basis for
6 Plaintiff or Class Counsel to rescind or withdraw from this Settlement and any such difference
7 will remain in the Gross Settlement Fund and available to the Class.

8 17. “Individual Settlement Payment” means each Participating Class Member’s
9 respective share of the Total Net Settlement Amount, minus the amount of the PAGA Allocation
10 allocated to payments to Aggrieved Employees.

11 18. “Individual PAGA Payments” means each Aggrieved Employee’s respective share
12 of the amount of the PAGA Allocation allocated to payments to Aggrieved Employees.

13 19. “Judgment” means the judgment to be rendered by the Court pursuant to this
14 Settlement Agreement.

15 20. “LWDA Payment” means the payment from the Gross Settlement Amount
16 allocated to the LWDA’s seventy-five percent (75%) share of the portion of the Gross Settlement
17 Amount allocated by the Parties to Plaintiff’s claims pursuant to the PAGA (*i.e.*, Plaintiff’s
18 Eighth Cause of Action in the First Amended Complaint).

19 21. “Notice of Objection” means a Class Member’s valid and timely written objection
20 to the Settlement (and/or the terms embodied therein). A written Notice of Objection must
21 include: (i) the objector’s full name, date of birth, signature, address, telephone number, and the
22 approximate dates of employment at Defendant and/or Airgas Carbonic in California; (ii) a
23 written statement of all grounds for the objection accompanied by any legal support for such
24 objection (if any); (iii) copies of any papers, briefs, or other documents upon which the objection
25 is based; and (iv) a statement describing whether the objector intends to appear at the Final
26 Approval/Settlement Fairness Hearing.

27 22. “Notice Packet” means the Notice of Class Action Settlement and Mailing
28 Envelope, substantially in the forms attached as **Exhibits A** and **B** hereto.

23. "PAGA Allocation" means the \$50,000 of the Gross Settlement Amount allocated to settlement of the PAGA Claims.

24. "PAGA Claims" means the claim for penalties pursuant to the Labor Code Private Attorneys General Act ("PAGA") asserted by Plaintiff in his Eighth Cause of Action in the First Amended Complaint.

25. "PAGA Period" means the period between May 7, 2019 and the later of (a) the Date of Preliminary Approval, and (b) 90 days from November 3, 2021.

26. "PAGA Qualifying Workweeks" means the number of calendar days of employment that each Aggrieved Employee worked for Defendant and/or Airgas Carbonic during the PAGA Period, divided by seven (7), and rounding up to the nearest whole number. All Aggrieved Employees will be credited with at least one PAGA Qualifying Workweek.

27. "Participating Class Members" means all Class Members who do not submit timely and valid Requests for Exclusion.

28. "Preliminary Approval" means the Court order granting preliminary approval of the Settlement.

29. "Qualifying Workweeks" means the number of calendar days of employment that each Participating Class Member worked for Defendant and/or Airgas Carbonic during the Class Period, divided by seven (7), and rounding up to the nearest whole number. All Class Members will be credited with at least one Qualifying Workweek.

30. "Released Class Claims" means all claims, rights, demands, liabilities, and causes of action of Class Members which accrued during the Class Period and which were or could have been alleged based on the facts alleged in the First Amended Complaint, including but not limited to: (i) claims for unpaid minimum (Cal. Lab. Code §§ 1194, 1197, 1197.1) and/or overtime wages (Cal. Lab. Code §§ 218, 510, 1198); (ii) claims for short, missed, untimely or otherwise non-compliant meal periods or a failure to provide meal periods (Cal. Lab. Code §§ 226.7, 512(a)); (iii) claims for short, missed, untimely or otherwise non-compliant rest periods or a failure to authorize and permit rest periods (Cal. Lab. Code § 226.7); (iv) claims for failure to timely pay wages upon termination of employment (Cal. Lab. Code §§ 201-203); (v) claims for

1 failure to furnish accurate itemized wage statements (Cal. Lab. Code § 226(a)); and (vi) claims
2 for violations of California Business & Professions Code, Section 17200, *et seq.* Each
3 participating Class Member who endorses and deposits his or her settlement check shall also
4 release the Released Parties from all claims under the Fair Labor Standards Act (“FLSA”) that are
5 alleged, related to, or that reasonably could have arisen under the facts alleged in the First
6 Amended Complaint, including but not limited to any unpaid wages, minimum wages, overtime,
7 penalties, premiums, bonuses, interest, liquidated damages, attorneys’ fees, costs, or any kind of
8 relief available under the FLSA.

9 31. “Released PAGA Claims” means all claims, rights, demands, liabilities, and
10 causes of action under Labor Code section 2698 *et seq.* for civil penalties Aggrieved Employees
11 which accrued during the PAGA Period.

12 32. “Released Parties” means Airgas and all of its parent, subsidiary, affiliated and
13 related companies and entities (including, without limitation, Airgas Carbonic), including all of
14 its/their officers, directors, employees, partners, shareholders, investors, and agents, and any
15 entities or partnerships with which they are affiliated.

16 33. “Request for Exclusion” means a timely letter submitted by a Class Member to the
17 Settlement Administrator pursuant to the terms set forth herein indicating a request to be excluded
18 from the Settlement. To be valid, a Request for Exclusion must: (i) set forth the full name,
19 address, telephone number, and last four digits of the Social Security number of the Class
20 Member requesting exclusion; (ii) be signed by the Class Member; (iii) be returned to the
21 Settlement Administrator; (iv) state “I wish to opt-out from this Settlement”; and (v) be faxed or
22 postmarked on or before the Response Deadline. Class Members may not request exclusion from
23 the PAGA Release.

24 34. “Response Deadline” means the deadline by which Class Members must postmark
25 to the Settlement Administrator Requests for Exclusion or serve Notices of Objection to the
26 Settlement, as set forth in Paragraphs 63 and 66 below.

27 35. “Settlement Administration Costs” means all costs incurred by the Settlement
28 Administrator in administering the Settlement, including, but not limited to, all costs, expenses

1 and fees associated with preparing, issuing and mailing any and all notices, computing,
2 processing, reviewing and mailing Individual Settlement Payments and Individual PAGA
3 Payments, generating Individual Settlement Payment and Individual PAGA Payment checks and
4 related tax reporting forms, preparing any tax returns and other filings required by any
5 governmental authority or agency, preparing any other checks, notices, reports or filings,
6 administering the process set forth in this Agreement regarding unclaimed checks, administering
7 disbursements from the Total Net Settlement Amount, and generating checks to Class Counsel for
8 attorneys' fees and costs, and to Plaintiff for his Incentive Award. The Settlement Administration
9 Costs shall be paid from the Gross Settlement Amount. The Settlement Administrator shall agree
10 to a not-to-exceed cost of Fifteen Thousand Dollars (\$15,000.00).

11 36. "Settlement Administrator" means CPT Group, Inc., the third-party class action
12 settlement administrator agreed to by the Parties and approved by the Court for the purposes of
13 administering this Settlement. The Parties each represent that they do not have any financial
14 interest in the Settlement Administrator or otherwise have a relationship with the Settlement
15 Administrator that could create a conflict of interest.

16 37. "Total Net Settlement Amount" means the portion of the Gross Settlement
17 Amount remaining after deducting the Incentive Award to Plaintiff; Attorneys' Fees and Costs to
18 Class Counsel as described above at Paragraph 3; Settlement Administration Costs to the
19 Settlement Administrator; and the LWDA Payment. The Total Net Settlement Amount will be
20 distributed to Participating Class Members and Aggrieved Employees by the Settlement
21 Administrator; there will be no reversion of the Total Net Settlement Amount to Defendant.

22 LITIGATION BACKGROUND

23 38. On May 7, 2020, Plaintiff provided written notice by U.S. Certified Mail to
24 Defendant and the LWDA of various provisions of the California Labor Code that he alleged
25 Defendant and Airgas Carbonic had violated.

26 39. On May 8, 2020, Plaintiff filed his Complaint, pleading claims for failure to pay
27 wages for all hours worked, failure to pay overtime wages, failure to provide meal periods, failure
28 to provide rest periods, waiting time penalties, and unfair competition. Plaintiff sought relief for

1 himself and all non-exempt, hourly California employees of Defendant and Airgas Carbonic
2 between May 8, 2016 and the present. Defendant timely answered the Complaint with a general
3 denial and asserted various affirmative defenses.

4 40. On July 27, 2020 Plaintiff filed another complaint in Los Angeles Superior Court
5 against Defendant and Airgas Carbonic (Case No. 20STCV28508). That complaint was for
6 penalties pursuant to PAGA. In that complaint, Plaintiff sought to recover PAGA penalties on
7 behalf of himself and all other alleged “aggrieved employees,” which included all non-exempt,
8 hourly California employees of Defendant and Airgas Carbonic. Defendant timely answered this
9 complaint with a general denial and asserted various affirmative defenses.

10 41. On November 30, 2020, the Parties stipulated that Plaintiff would dismiss Case
11 No. 20STCV28508 and would amend his Complaint to add his PAGA claim. Plaintiff filed his
12 First Amended Complaint on December 11, 2020, and his PAGA complaint was dismissed on
13 January 8, 2021.

14 42. Defendant timely answered the First Amended Complaint. At all times, Defendant
15 disputed that it had violated California wage and hour law and, further, maintained that Plaintiff’s
16 claims were not appropriate for class or representative adjudication for numerous reasons.

17 43. Since the filing of the Action and through execution of this Settlement Agreement,
18 Class Counsel has conducted a thorough investigation into the facts underlying the claims
19 asserted in the First Amended Complaint. Class Counsel has also engaged in extensive informal
20 and formal discovery, including, obtaining Defendant’s relevant written wage and hour policies
21 and procedures in effect during the Class Period and obtaining timekeeping and payroll records
22 for Plaintiff and a sample of putative Class Members. The Parties conferred extensively over the
23 scope of the Parties’ informal information exchange.

24 44. Prior to mediation, Defendant provided Class Counsel with detailed information
25 regarding the size of the Class, the applicable hiring and termination dates for Class Members,
26 and the pay rates of Class Members, in addition to other relevant information.

27 45. On June 14, 2021, the Parties participated in a day-long private mediation with the
28 assistance of mediator Michael Dickstein. The Parties did not settle on June 14, 2021. However,

1 with the assistance of Mr. Dickstein, the Parties later reached an agreement regarding a resolution
2 of the Action, which is memorialized herein.

3 **TERMS OF AGREEMENT**

4 Plaintiff, on behalf of himself and the Class and Aggrieved Employees, and Defendant
5 agree as follows:

6 46. Second Amended Complaint. Within seven (7) days of the execution of this
7 Agreement, Plaintiff will file a Second Amended Complaint, amending the definition of the
8 putative class and of the putative aggrieved employees to only include all non-exempt employees
9 of Airgas Carbonic, Inc. and/or Airgas USA, LLC who worked in California in the Dry Ice
10 Division during the relevant time period(s).

11 47. Conditional Stipulation to Class Certification. Solely for purposes of
12 implementing this Settlement Agreement and effectuating settlement, the Parties hereby
13 conditionally stipulate to class certification. Should this Settlement not be approved by the Court,
14 or the Parties proceed to litigation for any reason, Defendant reserves the right to object to and
15 oppose certification of any class and this Settlement Agreement may not be used as evidence in
16 support of class certification.

17 48. Funding of the Gross Settlement Amount. Within twenty-one (21) days of the
18 Effective Date, Defendant will make a one-time deposit of the Gross Settlement Amount into a
19 qualified settlement account to be established by the Settlement Administrator. After the
20 Effective Date, the Gross Settlement Amount will be used to satisfy all of Defendant's liabilities
21 arising from this Settlement, including interest; Individual Settlement Payments; Individual
22 PAGA Payments; the Incentive Award to Plaintiff; the LWDA Payment; Attorneys' Fees and
23 Costs; and Settlement Administration Costs.

24 49. Attorneys' Fees and Costs. Defendant agrees not to oppose or impede any
25 application or motion for Attorneys' Fees and Costs in the amounts set forth in Paragraph 3
26 above, which will be paid from the Gross Settlement Amount, subject to approval by the Court.
27 The Parties agree that the Court's approval of an award of fees in an amount less than 33.33% of
28 the Gross Settlement Amount (estimated \$166,500) shall not permit or be grounds for Plaintiff or

1 Class Counsel to cancel, void, back out, or otherwise revoke their acceptance of this Settlement
2 and the Parties' shall proceed with the Settlement notwithstanding.

3 50. Incentive Award to Plaintiff. Subject to Court Approval, an Incentive Award will
4 be paid to Plaintiff of not more than Seven Thousand and Five Hundred Dollars (\$7,500.00). The
5 Incentive Award to Plaintiff will be paid from the Gross Settlement Amount.

6 51. Settlement Administration Costs. The Settlement Administrator will be paid for
7 the reasonable costs of administration of the Settlement and distribution of payments from the
8 Class Settlement Amount, which the Settlement Administrator agrees will be capped at Fifteen
9 Thousand Dollars (\$15,000.00).

10 52. Payment and Notice to the LWDA. In consideration of claims made in the Action
11 pursuant to the PAGA, Class Counsel will request that the Court approve a PAGA Allocation of
12 Fifty Thousand Dollars (\$50,000.00) of the Gross Settlement Amount to these claims. Seventy-
13 five percent (75%) of this amount will be paid by the Settlement Administrator to the LWDA –
14 *i.e.*, the LWDA Payment – from the Gross Settlement Amount and the remaining twenty-five
15 percent (25%) will be distributed from the Total Net Settlement Amount to Aggrieved Employees
16 as set forth in Paragraph 54. The Court's adjustment, if any, of the amount allocated to Plaintiff's
17 PAGA claim(s), will not invalidate this Settlement Agreement. In accordance with section
18 2699(l)(2) of the California Labor Code, a copy of this Settlement Agreement shall be provided to
19 the LWDA on the same day that Plaintiff files his motion for preliminary approval of this
20 Settlement with the Court.

21 53. Total Net Settlement Amount. The entire Total Net Settlement Amount will be
22 distributed to Participating Class Members. No portion of the Total Net Settlement Amount will
23 revert to or be retained by Defendant.

24 54. Individual PAGA Payment Calculations. Individual PAGA Payments will be
25 calculated and apportioned from the 25% of the PAGA Allocation allocated to payment to
26 Aggrieved Employees, based on the number of Qualifying PAGA Workweeks an Aggrieved
27 Employee worked during the PAGA Period, as follows:
28

- 1 a. Defendant will calculate the total number of PAGA Qualifying Workweeks
2 worked by each Aggrieved Employee during the PAGA Period and the aggregate
3 total number of PAGA Qualifying Workweeks worked by all Aggrieved
4 Employees during the PAGA Period.
- 5 b. To determine each Aggrieved Employee's estimated share of the PAGA
6 Allocation, the Settlement Administrator will use the following formula: The
7 Aggrieved Employees' 25% share of the PAGA Allocation will be divided by the
8 aggregate total number of PAGA Qualifying Workweeks, resulting in the "PAGA
9 Workweek Value." Each Aggrieved Employee's payment will be calculated by
10 multiplying each individual Aggrieved Employee's total number of PAGA
11 Qualifying Workweeks by the PAGA Workweek Value.

12 55. Individual Settlement Payment Calculations. Individual Settlement Payments will
13 be calculated and apportioned from the Total Net Settlement Amount (minus the Individual
14 PAGA Payments) based on the number of Qualifying Workweeks a Class Member worked during
15 the Class Period, as follows:

- 16 a. Defendant will calculate the total number of Qualifying Workweeks worked by
17 each Class Member during the Class Period and the aggregate total number of
18 Qualifying Workweeks worked by all Class Members during the Class Period.
- 19 b. To determine each Class Member's estimated Individual Settlement Payment from
20 the Total Net Settlement Amount (not including the Aggrieved Employees' share
21 of the PAGA Allocation), the Settlement Administrator will use the following
22 formula: The Total Net Settlement Amount (not including the Aggrieved
23 Employees' share of the PAGA Allocation) will be divided by the aggregate total
24 number of Qualifying Workweeks, resulting in the "Workweek Value." Each
25 Class Member's Individual Settlement Payment will be calculated by multiplying
26 each individual Class Member's total number of Qualifying Workweeks by the
27 Workweek Value.
- 28

1 c. The entire Total Net Settlement Amount (not including the Individual PAGA
2 Payments) will be disbursed to all Class Members who do not submit timely and
3 valid Requests for Exclusion.

4 56. No Credit Towards Benefit Plans. The Individual Settlement Payments and
5 Individual PAGA Payments made to Participating Class Members and/or Aggrieved Employees
6 under this Settlement, as well as any other payments made pursuant to this Settlement, will not be
7 utilized to calculate any additional benefits under any benefit plans to which any Class Members
8 and/or Aggrieved Employees may be eligible, including, but not limited to: profit-sharing plans,
9 bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and
10 any other benefit plan. Rather, it is the Parties' intention that this Settlement Agreement will not
11 affect any rights, contributions, or amounts to which any Class Members and/or Aggrieved
12 Employees may be entitled under any benefit plans.

13 57. Administration Process. The Parties agree to cooperate in the administration of the
14 Settlement and to make all reasonable efforts to control and minimize the costs and expenses
15 incurred in administration of the Settlement.

16 58. Delivery of the Class List. Within fifteen (15) business days after Preliminary
17 Approval of this Settlement, Defendant will provide the Class List to the Settlement
18 Administrator.

19 59. Notice by First-Class U.S. Mail. Within fifteen (15) calendar days after receiving
20 the Class List from Defendant, the Settlement Administrator will mail a Notice Packet to all Class
21 Members via regular First-Class U.S. Mail, using the most current, known mailing addresses
22 identified in the Class List.

23 60. Confirmation of Contact Information in the Class Lists. Prior to mailing the
24 Notice Packets, the Settlement Administrator will perform a search based on the National Change
25 of Address Database in order to update and correct any addresses that may have changed. Any
26 Notice Packets returned to the Settlement Administrator as non-deliverable with a forwarding
27 address on or before the Response Deadline will be sent promptly via regular First-Class U.S.
28 Mail to the forwarding address affixed thereto and the Settlement Administrator will indicate the

1 date of such re-mailing on the Notice Packet. If no forwarding address is provided, the
2 Settlement Administrator will promptly attempt to determine the correct address using a skip-
3 trace, or other search using the name, address, and/or Social Security number of the Class
4 Member involved, and will then perform a single re-mailing. In the event the procedures in this
5 Paragraph are followed and the intended recipient of a Notice Packet still does not receive the
6 Notice Packet, the Class Member shall be bound by all terms of the Settlement and any Judgment
7 entered by the Court if the Settlement is approved by the Court. The Settlement Administrator
8 shall at all times protect the privacy rights of Class Members.

9 61. Notice Packets. All Class Members will be mailed a Notice Packet. Each Notice
10 Packet will provide: (i) information regarding the nature of the Action; (ii) a summary of the
11 Settlement's principal terms; (iii) the Class definition; (iv) the total number of Qualifying
12 Workweeks the respective Class Member worked for Defendant and/or Airgas Carbonic during
13 the Class Period (according to Defendant's records); (v) the Class Member's estimated Individual
14 Settlement Payment; (vi) the formula for calculating Individual Settlement Payments; (vii) the
15 dates which comprise the Class Period; (viii) instructions on how to submit Requests for
16 Exclusion and/or Notices of Objection; (ix) the Response Deadline; and (x) the claims to be
17 released pursuant to the Settlement of the Action. The Response Deadline shall be sixty (60)
18 calendar days from the date the Settlement Administrator initially mails the Notice Packet to the
19 Class Member; if the 60-day deadline falls on a Sunday or federal holiday, the Response Deadline
20 will be extended to the next day on which the U.S. Postal Service is open.

21 62. Disputed Information on Notice Packets. Class Members will have an opportunity
22 to dispute the information provided in their Notice Packets. To the extent Class Members dispute
23 their employment dates or the number of Qualifying Workweeks with which they have been
24 credited, Class Members may produce – by no later than the Response Deadline – evidence to the
25 Settlement Administrator showing that such information is inaccurate. The Settlement
26 Administrator will decide the dispute. Defendant's records will be presumed correct, but the
27 Settlement Administrator will evaluate the information and evidence submitted by the Class
28

1 Member and will make the final decision as to the merits of the dispute. All disputes will be
2 decided within ten (10) business days of the Response Deadline.

3 63. Request for Exclusion Procedures. Any Class Member wishing to opt-out from
4 the Settlement Agreement must sign and fax or postmark a written Request for Exclusion to the
5 Settlement Administrator by the Response Deadline. In the case of Requests for Exclusion that
6 are mailed to the Settlement Administrator, the postmark date will be the exclusive means to
7 determine whether a Request for Exclusion has been timely submitted. At no time will any of the
8 Parties or their counsel seek to solicit or otherwise encourage Class Members to opt-out from the
9 Settlement.

10 64. Defective Submissions. If a Class Member's Request for Exclusion is defective as
11 to the requirements listed herein, that Class Member will be given an opportunity to cure the
12 defect(s). The Settlement Administrator will mail the Class Member a cure letter within three (3)
13 business days of receiving the defective submission to advise the Class Member that his or her
14 submission is defective and that the defect must be cured to render the Request for Exclusion
15 valid. The Class Member will have until the later of (i) the Response Deadline or (ii) fifteen (15)
16 calendar days from the date of the cure letter to postmark a revised Request for Exclusion. If the
17 revised Request for Exclusion is not postmarked or received within that period, it will be deemed
18 untimely.

19 65. Settlement Terms Bind All Class Members Who Do Not Opt-Out. Upon the
20 Effective Date and upon the funding of the Settlement, any Class Member who does not
21 affirmatively opt-out of the Settlement by submitting a timely and valid Request for Exclusion
22 will be bound by all of its terms, including those pertaining to the Released Class Claims, as well
23 as any Final Judgment that may be entered by the Court if it grants final approval to the
24 Settlement. The Aggrieved Employees will be bound by the PAGA Release. Notwithstanding
25 anything to the contrary herein, however, the Aggrieved Employees cannot opt out of the PAGA
26 Release and will be bound by the PAGA Release as set forth herein.

27 66. Objection Procedures. To object to the Settlement, or any term of it, the person
28 making the objection must not submit a Request for Exclusion (*i.e.*, must not opt-out), and must

1 send the Settlement Administrator a Notice of Objection by the Response Deadline by fax or U.S.
2 Mail. The Notice of Objection must be signed by the Class Member and contain all information
3 required by this Settlement Agreement. The postmark date of the mailing will be deemed the
4 exclusive means for determining whether a written Notice of Objection is timely. The date of the
5 initial mailing of the Notice Packet, and the date the signed Notice of Objection was postmarked,
6 shall be conclusively determined according to the records of the Settlement Administrator. The
7 Settlement Administrator shall deliver any Notice of Objections it receives to Class Counsel and
8 counsel for Defendant within five (5) calendar days of receipt. Counsel for the Parties shall file
9 with the Court any response to the objections submitted by objecting Class Members at least ten
10 (10) court days before the date of the Final Approval/Settlement Fairness Hearing. In addition or
11 as an alternative to a written Notice of Objection, Class Members may appear at the Final
12 Approval/Settlement Fairness Hearing to raise any objections; the Court retains final authority
13 with respect to the consideration and admissibility of any Class Member Notice of Objection and
14 any in-person objections by Class Members at the Final Approval/Settlement Fairness Hearing.
15 Class Members who fail to object in writing in accordance with the above requirements or in
16 person at the Final Approval/Settlement Fairness Hearing by the date the Court issues an order
17 granting final approval of the Settlement will be deemed to have waived all objections to the
18 Settlement and will be foreclosed from making any objections, whether by appeal or otherwise, to
19 the Settlement. At no time will any of the Parties or their counsel seek to solicit or otherwise
20 encourage Class Members to submit written objections to the Settlement or appeal from the
21 Judgment. To the extent a timely Notice of Objection is withdrawn before final approval, such an
22 objection shall be treated as though no objection has been made.

23 67. Certification Reports Regarding Individual Settlement Payment Calculations. The
24 Settlement Administrator will provide counsel for Defendant and Class Counsel a weekly report
25 that: (i) certifies the number of Class Members who have submitted valid Requests for Exclusion
26 and the number of Notices of Objection to the Settlement it has received to date; and (ii) states
27 whether any Class Member has submitted a challenge to any information contained in their
28 Notice Packet. Additionally, the Settlement Administrator will provide to Class Counsel and

Defendant's counsel any updated reports regarding the administration of the Settlement Agreement as needed or requested.

68. Access to Information. The Settlement Administrator will maintain all Requests for Exclusion and Notices of Objection received from Class Members. The Claims Administrator will provide copies to the Parties of all documents, including, but not limited to the Requests for Exclusion returned by any Class Member upon reasonable request, or as otherwise set forth herein. To protect the privacy of the Class Members, the Claims Administrator shall redact the private personal information of the Class Members prior to providing such copies. Private personal information includes: birthdates, addresses, social security numbers, and phone numbers.

69. Distribution Timing of Individual Settlement Payments and Individual PAGA Payments. Within fifteen (15) calendar days after Defendant deposits the funds comprising the Gross Settlement Amount into the account, per Paragraph 48 above, the Settlement Administrator will issue payments to: (i) Participating Class Members (including the Incentive Award to Plaintiff); (ii) Aggrieved Employees; and (iii) Class Counsel.

- a. The Settlement Administrator shall ensure that the back of each settlement check issued to Participating Class Members states clearly:

CONSENT TO RELEASE FLSA CLAIMS

By signing, endorsing, depositing, cashing, or negotiating this check, I hereby reaffirm that I am releasing and/or have released Airgas USA, LLC (and all related individuals and entities, including, without limitation, Airgas Carbonic, Inc.) (the "Released Parties") from the wage and hour claims released in the Joint Stipulation of Class and Representative Action Settlement in *Yniguez v. Airgas USA, LLC, et al.*, Los Angeles Superior Court Case No. 20STCV18190 (the "Action"), approved by the Los Angeles Superior Court on [insert final approval date]. I further acknowledge that I fully and completely release the Released Parties from all claims, liabilities, and/or causes of action pursuant to the Fair Labor Standards Act ("FLSA") that are alleged, related to, or that reasonably could have arisen under the same facts alleged in the Action and that arise out of services rendered by me to any of the Released Parties between May 8, 2016 and [insert the later of (a) the Date of Preliminary Approval, and (b) 90 days from November 3, 2021], including but not limited to any unpaid wages, overtime, penalties, premiums, bonuses, interest, liquidated damages, attorneys' fees, costs, or any kind of relief available under the FLSA.

b. Within thirty (30) calendar days of the Effective Date, the Settlement Administrator will also issue a payment to itself for Court-approved services performed in connection with the Settlement. Also within thirty (30) calendar days of the Effective Date, the Settlement Administrator shall provide to the Parties, for filing with the Court, a declaration verifying, under oath, that it has mailed payments to each Participating Class Member and/or Aggrieved Employee.

70. Un-cashed Settlement Checks. Funds represented by Individual Settlement Payment and Individual PAGA Payment checks returned as undeliverable and Individual Settlement Payment and Individual PAGA Payment checks remaining un-cashed for more than one-hundred and eighty (180) calendar days after issuance shall be distributed within fifteen (15) business days of the expiration of the 180-day check-cashing period by the Settlement Administrator to the State of California, Department of the Controller Unclaimed Property Fund, in the name(s) of the corresponding Class Member(s) and/or Aggrieved Employee(s).

71. Certification of Completion. No later than twenty (20) calendar days prior to the Final Approval/Settlement Fairness Hearing, the Settlement Administrator will provide a written declaration under oath to: (i) certify completion of administration of the Notice Packets to the Court and counsel for all Parties; and (ii) provide all Settlement-related data, including the number of Class Members who submitted valid Requests for Exclusion and/or Notices of Objection to the Settlement.

72. Tax Treatment of Individual Settlement Payments. All Individual Settlement Payments will be allocated as (i) 30% as payment for alleged back wages, for which IRS Forms W-2 will be issued; and (ii) 70% as alleged liquidated damages, penalties, and interest, for which IRS Forms 1099-MISC will be issued.

73. Tax Treatment of Individual PAGA Payments. All Individual PAGA Payments will be allocated as 100% alleged liquidated damages, penalties, and interest, for which IRS Forms 1099-MISC will be issued.

74. Administration of Taxes by the Settlement Administrator. The Settlement Administrator will be responsible for, *inter alia*: (i) issuing to Plaintiff, Participating Class

1 Members, Aggrieved Employees, and Plaintiff's Counsel any W-2, 1099, or other tax forms as
2 may be required by law for all amounts paid pursuant to this Settlement; and (ii) forwarding all
3 payroll taxes, if any, and penalties to the appropriate government authorities.

4 75. Tax Liability. Defendant makes no representation as to the tax treatment or legal
5 effect of the payments called for hereunder, and Plaintiff, Participating Class Members,
6 Aggrieved Employees, and Class Counsel are not relying on any statement, representation, or
7 calculation by Defendant or by the Settlement Administrator in this regard. Plaintiff,
8 Participating Class Members, Aggrieved Employees, and Class Counsel understand and agree
9 that they will be solely responsible for the payment of any taxes and penalties assessed on the
10 payments described herein.

11 76. Circular 230 Disclaimer. EACH PARTY TO THIS AGREEMENT (FOR
12 PURPOSES OF THIS SECTION, THE "ACKNOWLEDGING PARTY" AND EACH PARTY
13 TO THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN "OTHER
14 PARTY") ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS
15 AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR
16 AMONG THE PARTIES OR THEIR ATTORNEYS OR OTHER ADVISERS, IS OR WAS
17 INTENDED TO BE, NOR WILL ANY SUCH COMMUNICATION OR DISCLOSURE
18 CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN
19 THE MEANING OF UNITED STATES TREASURY DEPARTMENT CIRCULAR 230
20 (31 CFR PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED
21 EXCLUSIVELY UPON HIS, HER, OR ITS OWN, INDEPENDENT LEGAL AND TAX
22 COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS
23 AGREEMENT, (B) HAS NOT ENTERED INTO THIS AGREEMENT BASED UPON THE
24 RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO
25 ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY
26 COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER TO ANY
27 OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE
28 ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISER TO ANY OTHER

1 PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY
2 OF ANY SUCH ATTORNEY'S OR ADVISER'S TAX STRATEGIES (REGARDLESS OF
3 WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE
4 ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY
5 TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS
6 AGREEMENT.

7 77. California Labor Code Section 206.5. In consideration of Defendant's payment of
8 the sums provided herein, each and every Participating Class Member will be deemed to have
9 also acknowledged and agreed that California Labor Code section 206.5 is not applicable to any
10 Participating Class Member because there is a good faith dispute as to whether any wages are due
11 at all to any such Participating Class Member.

12 78. No Prior Assignments. The Parties and their counsel represent, covenant, and
13 warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported
14 to assign, transfer, or encumber to any person or entity any portion of any liability, claim,
15 demand, action, cause of action or right herein released and discharged.

16 79. Nullification of Settlement Agreement. In the event that (a) the Court does not
17 finally approve the Settlement as provided herein or (b) the Settlement does not become final for
18 any other reason, then this Settlement Agreement, and any documents generated to bring it into
19 effect, will be null and void. Any order or Judgment entered by the Court in furtherance of this
20 Settlement Agreement will likewise be treated as void from the beginning.

21 80. Preliminary Approval. Class Counsel shall file (and set for hearing at the earliest
22 available date) a motion for an order: (a) preliminarily approving this Settlement; (b) concluding
23 that the Settlement Class meets the prerequisites for class certification for settlement purposes
24 only; (c) approving the Notice Packet to be provided to Class Members; (d) establishing a
25 procedure for Class Members to request exclusion or object; (e) setting a date for a Final
26 Approval/Settlement Fairness Hearing; and (f) enjoining Class Members and/or Aggrieved
27 Employees from filing, initiating, or continuing to prosecute any actions, claims, complaints, or
28 proceedings in Court, with the LWDA or with any other entity or in any other forum regarding

1 the Released Class Claims and the Released PAGA Claims. In conjunction with the Preliminary
2 Approval hearing, Plaintiff will submit this Settlement Agreement, which sets forth the terms of
3 this Settlement, and will include the proposed Notice Packet, which will include both the
4 proposed Notice of Class Action Settlement document and the proposed Mailing Envelope,
5 attached as Exhibits A and B, respectively. Prior to moving for Preliminary Approval, Class
6 Counsel shall share the draft motion with Defendant's counsel and provide Defendant two
7 business (2) days to review and propose revisions.

8 81. Final Settlement Approval Hearing and Entry of Judgment. Upon expiration of the
9 deadlines to fax or postmark Requests for Exclusion and/or Notices of Objection to the
10 Settlement, and with the Court's permission, a Final Approval/Settlement Fairness Hearing will
11 be conducted to determine the final approval of the Settlement along with the amounts properly
12 payable for: (i) Individual Settlement Payments; (ii) Individual PAGA Payments; (iii) the
13 Incentive Award to Plaintiff; (iv) Attorneys' Fees and Costs; (v) the LWDA Payment; and (vi) all
14 Settlement Administration Costs. The Final Approval/Settlement Fairness Hearing will not be
15 held any earlier than thirty (30) calendar days after the Response Deadline. Class Counsel will be
16 responsible for drafting all documents necessary to obtain final approval. Class Counsel will also
17 be responsible for drafting the attorneys' fees and costs application to be heard at the Final
18 Approval/Settlement Fairness Hearing.

19 82. Final Judgment and Continued Jurisdiction. At the Final Approval/Settlement
20 Fairness Hearing, Class Counsel shall petition the Court to enter an order granting final approval
21 of the Settlement and judgment. The Order and Judgment shall declare that Plaintiff and all
22 Participating Class Members and/or Aggrieved Employees are bound by the release of claims
23 described in the Notice Packet and herein. Prior to petitioning the Court, Class Counsel shall
24 share the draft order with Defendant's counsel and provide Defendant five (5) business days to
25 review and propose revisions. After entry of Judgment, the Court will have continuing
26 jurisdiction solely for purposes of addressing: (i) the interpretation and enforcement of the terms
27 of the Settlement, (ii) Settlement administration matters, and (iii) such post-Judgment matters as
28

1 may be appropriate under court rules, the Code of Civil Procedure, and/or as set forth in this
2 Settlement Agreement.

3 83. Releases by Plaintiff and by Participating Class Members. Upon the Effective
4 Date and contingent upon full funding of the Settlement: (i) Plaintiff and all Participating Class
5 Members will be deemed to have expressly waived and relinquished, to the fullest extent
6 permitted by law, any and all of the Released Class Claims against any and all of the Released
7 Parties; and (ii) with regard to his individual claims, Plaintiff will be deemed to have expressly
8 waived and relinquished, to the fullest extent permitted by law, the provisions, rights, and benefits
9 of Section 1542 of the California Civil Code, which provides:

10 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS
11 WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO
12 EXIST IN HIS OR HER FAVOR AT THE TIME OF
13 EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR
14 HER MUST HAVE MATERIALLY AFFECTED HIS OR HER
15 SETTLEMENT WITH THE DEBTOR.

16 Plaintiff agrees not to sue or otherwise make a claim against any of the Released Parties for the
17 Released Class Claims after the Effective Date. In addition, as to Plaintiff only, this release shall
18 also include any and all claims, known and unknown, under any local, state, or federal law, in
19 tort, common law, or contract, whether pleaded in the First Amended Complaint or not, except
20 any pending Workers' Compensation claims and any other claims that cannot be released as a
21 matter of law ("Plaintiff's General Release").

22 84. Releases by Plaintiff and by the Aggrieved Employees. Upon the Effective Date
23 and contingent upon full funding of the Settlement, Plaintiff and all Aggrieved Employees will be
24 deemed to have expressly waived and relinquished, to the fullest extent permitted by law, any and
25 all of the Released PAGA Claims against any and all of the Released Parties for the PAGA
26 Period. Even if an Aggrieved Employee opts out of the class Settlement, the Aggrieved
27 Employee will still release the Released PAGA Claims. An Aggrieved Employee may not opt
28 out of the PAGA Settlement.

85. Exhibits Incorporated by Reference. The terms of this Settlement Agreement
include the terms set forth in any attached Exhibits, which are incorporated by this reference as

1 though fully set forth herein. Any Exhibits to this Settlement Agreement are an integral part of
2 the Settlement.

3 86. Headings. The descriptive headings of any paragraphs or sections of the
4 Settlement Agreement are inserted for convenience of reference only and do not constitute a part
5 of this Agreement.

6 87. Entire Agreement. This Settlement Agreement and any attached Exhibits
7 constitute the entirety of the Parties' settlement terms. No other prior or contemporaneous written
8 or oral agreements may be deemed binding on the Parties. The Parties expressly recognize
9 California Civil Code Section 1625 and California Code of Civil Procedure Section 1856(a),
10 which provide that a written agreement is to be construed according to its terms and may not be
11 varied or contradicted by extrinsic evidence, and the Parties agree that no such extrinsic oral or
12 written representations or terms will modify, vary, or contradict the terms of this Settlement
13 Agreement.

14 88. Amendment or Modification. No amendment, change, or modification to this
15 Settlement Agreement will be valid unless in writing and signed, either by the Parties or their
16 counsel.

17 89. Authorization to Enter Into Settlement Agreement. Counsel for all Parties warrant
18 and represent they are expressly authorized by the Parties whom they represent to negotiate this
19 Settlement Agreement and to take all appropriate actions required or permitted to be taken by
20 such Parties pursuant to this Settlement Agreement to effectuate its terms and to execute any
21 other documents required to effectuate the terms of this Settlement. The Parties and their counsel
22 will cooperate with each other and use their best efforts to effect the implementation of the
23 Settlement and to promote and encourage 100% participation among the Class Members. If the
24 Parties are unable to reach agreement on the form or content of any document needed to
25 implement the Settlement, or on any supplemental provisions that may become necessary to
26 effectuate the terms of this Settlement, the Parties may seek the assistance of the Court to resolve
27 such disagreement.

1 90. Binding on Successors and Assigns. This Settlement Agreement will be binding
2 upon, and inure to the benefit of, the successors or assigns of the Parties hereto, as previously
3 defined.

4 91. California Law Governs. All terms of this Settlement Agreement will be governed
5 by and interpreted according to the laws of the State of California, without regard to choice of law
6 principles.

7 92. Execution in Counterparts. This Settlement Agreement is subject only to the
8 execution of all Parties. However, the Settlement Agreement may be executed in one or more
9 counterparts. All executed counterparts and each of them, including facsimile and scanned
10 portable document format ("PDF") copies of the signature page, will be deemed to be one and the
11 same instrument. A facsimile or PDF copy shall be considered an original for all purposes.

12 93. Acknowledgement that the Settlement is Fair and Reasonable. The Parties and
13 their respective counsel believe this Settlement is a fair, adequate, and reasonable settlement of
14 the Action and have arrived at this Settlement after arm's-length negotiations and in the context
15 of adversarial litigation, taking into account all relevant factors, present and potential.

16 94. Invalidity of Any Provision. Before declaring any provision of this Settlement
17 Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest
18 extent possible consistent with applicable precedents so as to define all provisions of this
19 Settlement Agreement valid and enforceable.

20 95. Waiver of Certain Appeals. The Parties agree to waive appeals; except, however,
21 that Plaintiff or Class Counsel may appeal any reduction to the Attorneys' Fees and Costs below
22 the amount they request from the Court, and either party may appeal any court order that
23 materially alters the Settlement Agreement's terms.

24 96. Interim Stay of Proceedings. The Parties agree that all proceedings in the Action
25 shall be stayed, except such proceedings necessary to implement and complete the Settlement,
26 pending completion of the hearings referenced herein.

27 97. Notice To Counsel. All notices, requests, demands, and other communications
28 required or permitted to be given pursuant to this Settlement Agreement shall be in writing and

shall be delivered (i) personally or (ii) mailed, postage prepaid, by first-class U.S. Mail with a concurrent copy by email, to the undersigned persons at their respective addresses as set forth herein:

Class Counsel

James R. Hawkins, Esq.
Christina M. Lucio, Esq.
James Hawkins, APLC
9880 Research Dr.
Suite 200
Irvine, CA 92618
Telephone: (949) 387-7200
Facsimile: (949) 387-6676
E-mail: james@jameshawkinsaplc.com
E-mail:
christina@jameshawkinsaplc.com

Counsel for Defendant

Cheryl D. Orr, Esq.
Kristin M. Halsing, Esq.
Faegre Drinker Biddle & Reath LLP
Four Embarcadero Center
27th Floor
San Francisco, CA 94111
Telephone: (415) 591-7500
Facsimile: (415) 591-7510
E-mail: cheryl.orr@faegredrinker.com
E-mail: kristin.halsing@faegredrinker.com

98. Non-Admission of Liability. The Parties enter into this Settlement to resolve the dispute that has arisen between them and to avoid the burden, expense, and risk of continued litigation. In entering into this Settlement, Defendant does not admit – and in fact specifically denies – that it violated any federal, state, or local law; violated any common law; violated any regulations or guidelines promulgated pursuant to any statute or any other applicable laws, regulations, or legal requirements; breached any contract; violated or breached any duty; engaged in any misrepresentation or deception; or engaged in any other unlawful conduct with respect to its employees. Neither this Settlement Agreement, nor any of its terms or provisions, nor any of the negotiations connected with it, will be construed as an admission or concession by Defendant of any such violations or failures to comply with any applicable law. Except as necessary in a proceeding to enforce the terms of this Settlement, this Settlement Agreement and its terms and provisions will not be offered or received as evidence in any action or proceeding to establish any liability or admission on the part of Defendant or to establish the existence of any condition constituting a violation of, or non-compliance with, federal, state, local, or other applicable law.

99. Option to Rescind the Settlement Agreement. Defendant may elect to rescind the Settlement if twenty percent (20%) or more of the Class Members submit timely Requests for

1 Exclusion and do not rescind them by the Response Deadline. If Defendant wishes to exercise its
2 conditional right to rescind, it must do so by written communication to Class Counsel that is
3 received by Class Counsel within twenty (20) calendar days of the Response Deadline. In the
4 event that Defendant exercises their conditional right to rescind, the Parties will be restored to
5 their litigation positions as of November 3, 2021, except that all deadlines and/or hearings
6 pending as of November 3, 2021 will be rescheduled to afford the Parties sufficient time to
7 resume litigation. Furthermore, in the event that Defendant exercises its conditional right to
8 rescind, Defendant will be responsible for all Settlement Administration Costs incurred up to the
9 date of rescission.

10 100. Excluded Class Members. Any Class Member who, through a settlement
11 agreement with Defendant or any of the Released Parties that was executed prior to the date of
12 Preliminary Approval, released the claims at issue in the Action for the entire Class Period will:
13 (i) not be included in the Class; (ii) be excluded from the settlement payment calculations
14 discussed herein; and (iii) not be entitled to notice (including a Notice Packet) as provided herein.
15 Any release that does not encompass the entire Class Period requires the claims of such
16 individuals to be limited to the time which is unaffected by the prior settlement(s).

17 101. Proportional Increase in Gross Settlement Amount. Prior to the Parties' execution
18 of their Memorandum of Understanding, Defendant estimated that the size of the Class was/is
19 272. If the number of Class Members exceeds 272 by more than 7.5% (i.e., more than 292 Class
20 Members) as of the end of the Class Period, the Gross Settlement Amount will increase on a pro
21 rata basis per additional Class Member exceeding 272.

22 102. No Publicity. Except as provided herein or ordered by the court, the Parties and
23 their counsel agree that they will not issue any press releases, initiate any contact with the press,
24 respond to any press inquiry, or have any communication with the press about the fact, amount, or
25 terms of the Settlement; Class Counsel shall do nothing to publicize this Settlement or use it for
26 marketing purposes, including on websites or on the Internet.

27 103. Waiver. No waiver of any condition or covenant contained in this Settlement
28 Agreement or failure to exercise a right or remedy by any of the Parties hereto will be considered

1 to imply or constitute a further waiver by such party of the same or any other condition, covenant,
2 right, or remedy.

3 104. Enforcement Actions. In the event that one or more of the Parties institutes any
4 legal action or other proceeding against any other Party or Parties to enforce the provisions of this
5 Settlement or to declare rights and/or obligations under this Settlement, the successful Party or
6 Parties will be entitled to recover from the unsuccessful Party or Parties reasonable attorneys'
7 fees and costs, including expert witness fees, incurred in connection with any enforcement
8 actions.

9 105. Mutual Preparation. The Parties have had a full opportunity to negotiate the terms
10 and conditions of this Settlement Agreement. Accordingly, this Settlement Agreement will not be
11 construed more strictly against one party than another merely by virtue of the fact that it may
12 have been prepared by counsel for one of the Parties, it being recognized that, because of the
13 arm's-length negotiations between the Parties, all Parties have contributed to the preparation of
14 this Settlement Agreement.

15 106. Representation By Counsel. The Parties acknowledge that they have been
16 represented by counsel throughout all negotiations that preceded the execution of this Settlement
17 Agreement, and that this Settlement Agreement has been executed with the consent,
18 recommendation, and advice of counsel.

19 107. All Terms Subject to Final Court Approval. All amounts and procedures described
20 in this Settlement Agreement will be subject to final Court approval.

21 108. Cooperation and Execution of Necessary Documents. All Parties will cooperate in
22 good faith and execute all documents to the extent reasonably necessary to effectuate the terms of
23 this Settlement Agreement.

24 109. Binding Agreement. The Parties warrant that they understand and have full
25 authority to enter into this Settlement Agreement, and further intend that this Settlement
26 Agreement will be fully enforceable and binding on all Parties, and agree that it will be
27 admissible and subject to disclosure in any proceeding to enforce its terms, notwithstanding any
28 mediation confidentiality provisions that otherwise might apply under federal or state law.

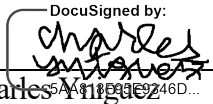
Plaintiff agrees that, by signing this Settlement Agreement, he is bound by the terms herein stated and further agrees not to request to be excluded from the Settlement and further warrants and represents that he has no objection to any of the terms of this Settlement. Any attempt by Plaintiff to opt-out of the Settlement or otherwise not comply with this Settlement Agreement shall be deemed void and of no force or effect. Any such request for exclusion shall therefore be void and of no force or effect.

READ CAREFULLY BEFORE SIGNING

The Parties hereby agree to and execute this Joint Stipulation of Class and Representative Action Settlement agreement.

PLAINTIFF

Dated: 8/16/2022

DocuSigned by:

Plaintiff Charles Angier

AIRGAS USA, LLC

Dated: _____

Name: _____

Title: _____

APPROVED AS TO FORM

1 Dated: _____
2
3

**FAEGRE DRINKER BIDDLE & REATH
LLP**

4 By: _____
5 Cheryl D. Orr
6 Kristin M. Halsing

7 Attorneys for Defendant AIRGAS USA, LLC
8

9 Dated: August 16, 2022
10

JAMES HAWKINS, APLC

11 By: 
12 James R. Hawkins
13 Christina M. Lucio

14 Attorneys for Plaintiff CHARLES YNIGUEZ
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 The Parties hereby agree to and execute this Joint Stipulation of Class and Representative Action
2 Settlement agreement.

3
4 **PLAINTIFF**

5 Dated: _____

6 Plaintiff Charles Yniguez

7
8 **AIRGAS USA, LLC**

9 Dated: 8/15/2022

10 Name: Marcelo Fioranelli

11 Title: CEO

12
13
14
15
16 **APPROVED AS TO FORM**

17
18 Dated: August 15, 2022

19 **FAEGRE DRINKER BIDDLE & REATH
LLP**

20
21 By: Cheryl D. Orr

22 Cheryl D. Orr

23 Kristin M. Halsing

24 Attorneys for Defendant AIRGAS USA, LLC

25
26 Dated: _____

27 **JAMES HAWKINS, APLC**

28 By:

EXHIBIT 2

Electronically Received 09/15/2022 09:42 AM

1 James R. Hawkins, Esq. SBN 192925
james@jameshawkinsaplc.com
2 Christina M. Lucio, Esq. SBN 253677
christina@jameshawkinsaplc.com
3 JAMES HAWKINS APLC
9880 Research Drive, Suite 200
4 Irvine, CA 92618
TEL: (949) 387-7200
5 FAX: (949) 387-6676

6 *Attorneys for Plaintiff*
CHARLES YNIGUEZ, individually and
7 on behalf of all others similarly situated

8
9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **COUNTY OF LOS ANGELES**

11 CHARLES YNIGUEZ, individually and on
behalf of all others similarly situated,
12
13 Plaintiff,
14
15 vs.
16 AIRGAS USA, LLC, a Delaware limited
liability corporation; AIRGAS CARBONIC,
17 INC., a Delaware corporation; and DOES 1
through 20, inclusive,
18
19 Defendants.

Case No.: 20STCV18190

Assigned for All Purposes to:
Hon. Elihu M. Berle
Dept. 6

**~~PROPOSED~~ ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT, APPROVAL OF
CLASS NOTICE, AND CONDITIONAL
CERTIFICATION OF SETTLEMENT CLASS**

Complaint Filed: May 8, 2020
FAC Filed: December 11, 2020

FILED
Superior Court of California
County of Los Angeles
09/16/2022

Sherri R. Carter, Executive Officer / Clerk of Court
By: R. Aspiras Deputy

~~PROPOSED~~ ORDER

This matter came before the Court on the application of Plaintiff Charles Yniguez (“Plaintiff”) for Preliminary Approval of a Joint Stipulation of Class Action Settlement (“Settlement Agreement”), Approval of Class Notice, and Conditional Certification of the Settlement Class (the “Preliminary Approval Motion”). The Court considered the proposed Joint Stipulation of Class Action Settlement (“Settlement”) attached as Exhibit 1 to the Declaration of James R. Hawkins, the submissions of counsel, and all other papers filed in this action. This Order incorporates, by reference, the definitions in the Settlement. The matter having been submitted, and good cause appearing therefore, this Court **HEREBY ORDERS THE FOLLOWING:**

1. The provisions of the Settlement are hereby preliminarily approved. The Court finds that the Settlement appears to be fair, adequate, and reasonable to Plaintiff and the Settlement Class, free of collusion and indicia of unfairness, and within the range of possible judicial approval. The Court also finds that the Settlement resulted from arm’s length negotiations and is sufficient to warrant the dissemination of Class Notice to Class Members.

2. Pursuant to California Code of Civil Procedure section 382 and California Rule of Court 3.769, and for purposes of, and solely in connection with the Settlement, the Court finds that each of the requirements for certification of the class set forth in Plaintiff’s Preliminary Approval Motion are met and hereby conditionally certifies the following Class (“Settlement Class”):

all individuals who were employed by Defendant Airgas USA, LLC or Defendant Airgas Carbonic in California in their Dry Ice Divisions as non-exempt/hourly employees at any time from May 8, 2016 through the date of preliminary approval by the court.

3. Certification of the proposed Class for settlement purposes only is appropriate under California Code of Civil Procedure section 382 and California Rule of Court 3.769. The Court has considered the Settlement and the papers in support of the Motion for Preliminary Approval and finds that the proposed Class is proper and should be certified, for settlement

1 purposes only, in the circumstances of this case. Specifically, the Court finds (a) that the Class is
2 ascertainable; (b) the Class is sufficiently numerous such that joinder of all members is
3 impracticable; (c) there are questions of law and fact common to the Class; (d) the named Plaintiff's
4 claims are typical of the claims of the Class; (e) the named Plaintiff and Plaintiff's Counsel have
5 and are able to adequately represent the Class; and (f) class-wide treatment of this dispute is
6 superior to other available methods for adjudicating the controversy. It is therefore ordered that
7 the Class is certified for settlement purposes only.

8 4. If the Settlement is terminated or not consummated, the certification shall be void.
9 In such case, Plaintiff, the Class Members, the Aggrieved Employees, and Defendants Airgas
10 USA, LLC and Airgas Carbonic, Inc. ("Defendants" or "Airgas") shall be returned to their
11 respective statuses as of the date immediately prior to the execution of the Settlement and neither
12 the Settlement nor this Preliminary Approval Order shall have any bearing on, and neither shall be
13 admissible in connection with (a) any issue in this action or any claim raised under any other
14 federal, state, or local law that was intended to be encompassed within Plaintiff's Complaint; (b)
15 whether certification would be appropriate in a non-settlement context; (c) Defendants' liability
16 for any final judgment or to any Class Member; and (d) any judgment ultimately sought to be
17 entered against Defendants or otherwise. If the Settlement is terminated or not consummated,
18 Airgas shall have reserved its rights to oppose any and all class certification motions and to oppose
19 the adequacy of the named Plaintiff as the representative of any putative class or Plaintiff's
20 Counsel as Class Counsel.

21 5. The Court appoints and designates the named Plaintiff, Charles Yniguez, as Class
22 Representative.

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1 6. The Court appoints and designates James Hawkins, APLC as Class Counsel. Class
2 Counsel is located at the following address:

3 James R. Hawkins, Esq.
4 Christina M. Lucio, Esq.
5 JAMES HAWKINS APLC
6 9880 Research Drive, Suite 200
7 Irvine, CA 92618
8 Telephone: (949) 387-7200
9 Facsimile: (949) 387-6676

10 Class Counsel is authorized to act on behalf of the Class with respect to all acts or
11 consents required by, or which may be given, pursuant to the Settlement, and such other acts
12 necessary to finalize the Settlement and its terms. Any Class Member may enter an appearance
13 through his or her own counsel at such Class Member's own expense. Any Class Member who
14 does not enter an appearance or appear on his or her own behalf will be represented by Class
15 Counsel.

16 7. The Court hereby approves the terms provided for in the Settlement, finding them
17 to be fair and reasonable and in the best interests of the parties.

18 8. The Court hereby preliminarily approves the Settlement and the Gross Settlement
19 Amount of \$500,000, with the Total Net Settlement Amount to be paid to Class Members who do
20 not opt out or exclude themselves from the class being calculated by subtracting the following
21 from the Gross Settlement Amount: (1) Court-approved Attorneys' Fees (in an amount not to
22 exceed 1/3 of the Settlement Fund (estimated \$166,500)); (2) Attorneys' reimbursement of
23 reasonable and actual costs incurred (not to exceed Twenty-Seven Thousand dollars (\$27,000));
24 (3) Settlement Administration Costs to CPT Group, Inc. (estimated not to exceed \$15,000); (4)
25 the Incentive Award to the Class Representative (not to exceed \$7,500); and (5) the 75%
26 (\$37,500) of the \$50,000 PAGA Allocation to be paid to the LWDA. The Total Net Settlement
27 Amount will be paid as Individual Settlement Payments to Class Members who do not opt out or
28 exclude themselves is anticipated to be approximately \$246,500 (including the Individual PAGA
Payments). There is no reversion to Defendants.

1 9. The Court further preliminarily approves the formulas provided in the Settlement
2 for calculating Individual Settlement Payments based on the number of Qualifying Workweeks a
3 Class Member worked during the Class Period. To determine each Class Member's estimated
4 Individual Settlement Payment from the Total Net Settlement Amount (not including the
5 Aggrieved Employees' share of the PAGA Allocation), the Settlement Administrator will use the
6 following formula: The Total Net Settlement Amount (not including the Aggrieved Employees'
7 share of the PAGA Allocation) will be divided by the aggregate total number of Qualifying
8 Workweeks, resulting in the "Workweek Value." Each Class Member's Individual Settlement
9 Payment will be calculated by multiplying each individual Class Member's total number of
10 Qualifying Workweeks by the Workweek Value. Additionally, Defendants' employer share of
11 payroll taxes (e.g. UI, ETT, Social Security and Medicare taxes) on Individual Settlement
12 Payments paid to the Class Members is not a part of the \$500,000 Gross Settlement Amount and
13 Defendants will pay such taxes in a payment separate and apart from the other payments which
14 will be deducted from the Gross Settlement Amount.

15 10. The Court further preliminarily approves the formulas provided in the Settlement
16 for calculating Individual PAGA Payments to Aggrieved Employees based on the number of
17 Qualifying PAGA Workweeks an Aggrieved Employee worked during the PAGA Period. To
18 determine each Aggrieved Employee's estimated share of the PAGA Allocation, the Settlement
19 Administrator will use the following formula: The Aggrieved Employees' 25% share of the
20 PAGA Allocation will be divided by the aggregate total number of PAGA Qualifying
21 Workweeks, resulting in the "PAGA Workweek Value." Each Aggrieved Employee's payment
22 will be calculated by multiplying each individual Aggrieved Employee's total number of PAGA
23 Qualifying Workweeks by the PAGA Workweek Value.

24 11. The Court finds on a preliminary basis that the Settlement, including the Class
25 Representative's Incentive Award, Class Counsel Attorneys' Fees and Costs, the Settlement
26 Administrator fees, the PAGA Allocation, and the allocation of payments to Class Members,
27 appears to be within the range of reasonableness of a settlement that could ultimately be given
28 final approval by this Court. It appears to the Court on a preliminary basis that the Settlement is
fair, adequate and reasonable as to all potential Class Members when balanced against the

1 probable outcome of further litigation relating to liability and damages issues. It also appears that
2 extensive and costly investigation, research and court proceedings have been conducted so that
3 counsels for the parties are able to reasonably evaluate their respective positions. It appears to the
4 Court that settlement at this time will avoid substantial additional costs by all parties, as well as
5 avoid the delay and risks that would be presented by the further prosecution of this class action. It
6 also appears that Settlement has been reached as result of intensive, serious and non-collusive,
7 arms-length negotiations.

8 12. The Court hereby approves, as to form and content, the Notice of Class Action
9 Settlement (“Class Notice”) to be sent to Class Members, which is attached hereto as **Exhibit A**
10 and to the Settlement Agreement as Exhibit A. The Court finds that distribution of the Notice to
11 the Class Members substantially in the manner and form set forth in the Settlement and this Order
12 meets the requirements of due process and shall constitute due and sufficient notice to all parties
13 entitled thereto.

14 13. The Court further finds the proposed Class Notice to be the best means practicable
15 of providing notice under the circumstances and when completed shall constitute due and
16 sufficient notice of the Action, proposed Settlement, and Final Approval hearing to all persons
17 affected by and/or authorized to participate in the Settlement, in full compliance with due process
18 and the requirements of the California Rules of Court and California Code of Civil Procedure.

19 14. The provisions of the Settlement are deemed incorporated as if expressly set forth
20 in this Preliminary Approval Order and have the full force and effect of an Order of this Court.
21 Class Members shall have 60 calendar days to object to the Settlement, request exclusion from the
22 Settlement, or dispute the workweeks allocated and identified in the Class Member’s Notice of
23 Class Action Settlement.

24 15. The Court appoints and designates CPT Group, Inc. as the Settlement
25 Administrator. The Court hereby directs the Settlement Administrator to provide the approved
26 Class Notice to the Class Members and administer the Settlement in accordance with the
27 procedures set forth in the Settlement Agreement attached as Exhibit 1 to the Hawkins
28 Declaration. The Notice will also be sent to the PAGA Aggrieved Employees. Aggrieved

1 Employees will not have an opportunity to Request Exclusion from the Settlement or Object to
2 the Settlement.

3 16. Any Class Member may choose to opt out of and be excluded from the Settlement
4 as provided in the Settlement and Class Notice and by following the instructions for requesting
5 exclusion. Any person who timely and properly excludes themselves from the Settlement will not
6 be bound by it or have any right to object, appeal or comment thereon. Any requests for
7 exclusion must be signed by each such Class Member opting out and sent to the Settlement
8 Administrator. The completed Request for Exclusion must be sent to the Settlement
9 Administrator, CPT Group, Inc., at the address on the form. Class Members who have not timely
10 requested exclusion shall be bound by all determinations of the Court, the Settlement and the
11 Judgment. Class Members who do not exclude themselves from the Settlement will receive their
12 Individual Settlement Payment as Participating Class Members and will be bound by the
13 Judgment.

14 17. Any Class Member may object to the Settlement or express his or her views
15 regarding the Settlement and may present evidence and file briefs or other papers that may be
16 proper and relevant to the issues to be heard and determined by the Court as provided in the Class
17 Notice. To object to the Settlement, or any term of it, the person making the objection must not
18 submit a Request for Exclusion (*i.e.*, must not opt-out), and must send the Settlement
19 Administrator a Notice of Objection by the Response Deadline by fax or U.S. Mail. The Notice
20 of Objection must be signed by the Class Member and contain all information required by this
21 Settlement Agreement. The postmark date of the mailing will be deemed the exclusive means for
22 determining whether a written Notice of Objection is timely. The date of the initial mailing of the
23 Notice Packet, and the date the signed Notice of Objection was postmarked, shall be conclusively
24 determined according to the records of the Settlement Administrator. The Settlement
25 Administrator shall deliver any Notice of Objections it receives to Class Counsel and counsel for
26 Defendant within five (5) calendar days of receipt. Counsel for the Parties shall file with the
27 Court any response to the objections submitted by objecting Class Members at least ten (10) court
28 days before the date of the Final Approval/Settlement Fairness Hearing. In addition or as an

1 alternative to a written Notice of Objection, Class Members may appear at the Final
2 Approval/Settlement Fairness Hearing to raise any objections; the Court retains final authority
3 with respect to the consideration and admissibility of any Class Member Notice of Objection and
4 any in-person objections by Class Members at the Final Approval/Settlement Fairness Hearing.
5 Class Members who fail to object in writing in accordance with the above requirements or in
6 person at the Final Approval/Settlement Fairness Hearing by the date the Court issues an order
7 granting final approval of the Settlement will be deemed to have waived all objections to the
8 Settlement and will be foreclosed from making any objections, whether by appeal or otherwise, to
9 the Settlement. To the extent a timely Notice of Objection is withdrawn before final approval,
10 such an objection shall be treated as though no objection has been made.

11 18. The Settlement Administrator shall file a declaration concurrently with the filing
12 of any motion for final approval, authenticating a copy of every request for exclusion and/or
13 objection received by the Settlement Administrator.

14 19. Defendants must exercise any right to void the Settlement before the Final
15 Approval Hearing in accordance with the terms of the Settlement. Similarly, if Plaintiff wishes to
16 exercise any right to void the Settlement pursuant to the terms of the Settlement Agreement, they
17 must exercise any such right before the Final Approval Hearing.

18 20. The motion for final approval and any motion for attorneys fees shall be filed by
19 the Class Representatives through Class Counsel no later than November 14, 2022.

20 21. Upon final approval and completion of administration, all Class Members who
21 have not submitted requests for exclusion and the Class Representative will be deemed to have
22 forever released and discharged the Released Claims applicable to them and waived their rights
23 for the applicable Released Claims, as set forth in the preliminarily approved Settlement.

24 22. The Court reserves the right to adjourn or continue the date of the Final Fairness
25 and Approval Hearing and all dates provided for in the Settlement without further notice to the
26 Class and retains jurisdiction to consider further applications concerning the Settlement.
27 However, Class Counsel will give notice to any objecting party of the continuance of any hearing
28 on the motion for Final Approval.

- 1 23. The Court order the following schedule for further proceedings:
- 2 a. No later than September 29, 2022, Airgas shall provide a list containing
- 3 Class Members’ (i) each Class Member’s full name; (ii) last known
- 4 mailing address and telephone number; (iii) Social Security number; (iv)
- 5 each Class Member’s dates of employment with Airgas or Airgas
- 6 Carbonic; (v) the respective number of Qualifying Workweeks that each
- 7 Class Member worked during the Class Period; and (vii) the respective
- 8 number of PAGA Qualifying Workweeks that each Aggrieved Employee
- 9 worked during the PAGA Period.
- 10 b. No later than October 13, 2022, the Settlement Administrator shall send
- 11 the Notice of Class Action and Private Attorney General Act (“PAGA”)
- 12 Settlement (the “Notice”) via first-class mail to Class Members.
- 13 c. No later than November 14, 2022, Class Counsel shall file any motion for
- 14 Final Approval and any motion for Attorneys’ Fees and Costs Award
- 15 and/or Incentive Award.
- 16 d. No later than December 13, 2022, Class Members may submit a request
- 17 for exclusion from the Settlement in accordance with the Settlement.
- 18 e. No later than December 13, 2022, Class Members may submit a dispute or
- 19 challenge to the information in the Notice in accordance with the
- 20 Settlement.
- 21 f. No later than December 13, 2022, Class Members may submit objections
- 22 in accordance with the Settlement.
- 23 g. No later than January 13, 2023, the Settlement Administrator shall file a
- 24 declaration under oath to: (i) certify completion of administration of the
- 25 Notice Packets to the Court and counsel for all Parties; and (ii) provide all
- 26 Settlement-related data, including the number of Class Members who
- 27 submitted valid Requests for Exclusion and/or Notices of Objection to the
- 28 Settlement.

- h. No later than December 13, 2022, Class Members may submit objections in accordance with the Settlement.
- i. No later than January 13, 2023, Class Counsel and Defense Counsel shall file any responses to any objections.
- j. A Final Approval Hearing shall be held before this Court on January 23, 2023 at 9:00 a.m. to determine all necessary matters concerning the Settlement, including, whether this Court should grant final approval, whether there should be any Attorneys' Fees and Costs Award and/or Incentive Award, and the amounts of any such award.

24. Any objecting Class Member may appear, in person or by counsel, at the Final Approval Hearing to show cause why the Settlement should not be approved as fair, adequate, and reasonable, or to object to any request for an Attorneys' Fees and Costs Award and/or Incentive Award. An objecting Class Member is not required to appear, in person or by counsel, at the Final Approval Hearing to have his or her objection considered by the Court.

25. Nothing in this Preliminary Approval Order is, or may be construed as, an admission or concession on any point of fact or law by or against the Plaintiff or Defendants.

26. Class Counsel, Defendants, and the Settlement Administrator are directed to carry out their obligations under the Settlement.

IT IS SO ORDERED.



Elihu M. Berle

DATED: ²09/16/2023 By: Elihu M. Berle / Judge
JUDGE OF THE SUPERIOR COURT

EXHIBIT 3

JAMES HAWKINS APLC
James R. Hawkins, Esq. (#192925)
Christina M. Lucio, Esq. (#253677)
9880 Research Drive, Suite 200
Irvine, CA 92618
Tel.:(949) 387-7200
Fax:(949) 387-6697
Email: James@jameshawkinsaplc.com
Email: Christina@jameshawkinsaplc.com

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

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE

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

Plaintiff,

vs.

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

Defendants .

CASE NO. 20STCV18190

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

**DECLARATION OF JAMES R.
HAWKINS IN SUPPORT OF MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

[Notice of Motion; Declaration of Charles
Yniguez In Support of Motion for Preliminary
Approval of Class Action Settlement;
Memorandum In Support of Motion for
Preliminary Approval of Class Action
Settlement; [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

DECLARATION OF JAMES HAWKINS

I, James Hawkins, declare as follows:

1. I am an individual over the age of 18. I am a partner at the law firm of James Hawkins, APLC. I am one of the attorneys of record for Plaintiff Charles Yniguez (hereinafter referred to as "Plaintiff" or "Class Representative"), who filed this action on behalf of himself and the Class Members as defined herein. I submit this declaration in support of Plaintiff's Motion for Preliminary Approval of Class Action Settlement, which Plaintiff filed concurrently herewith, along with the supporting Memorandum of Points and Authorities. I have personal knowledge of the facts set forth below, and if called to testify regarding them, I could and would do so competently.

2. Attached hereto as Exhibit 1 is a true and correct copy of the executed Settlement Agreement which the Parties ask the Court to approve. Attached as Exhibit A to the Settlement Agreement is a true and correct copy of the Notice of Class Action Settlement which the Parties have requested the Court approve for sending to the Settlement Class.

3. On May 8, 2020, Plaintiff Yniguez filed his class action complaint in the Superior Court of the State of California, for the County of Los Angeles (Case No. 20STCV18190) alleging claims for (1) failure to pay minimum wages; (2) failure to pay overtime wages; (3) failure to provide meal periods; (4) failure to permit rest breaks; (5) failure to provide accurate itemized wage statements; (6) failure to pay all wages due within the required time and upon separation of employment; and (7) violation of Business and Professions Code §§ 17200, *et seq.* ("Class Complaint").

4. Plaintiff filed his Complaint individually and on behalf of all other non-exempt employees who worked for Defendants in the State of California during the relevant period. ("Class Members") The class action complaint also defined a subclass of putative class members who separated their employment from Defendants within three years prior to the filing of the action to the present and continuing. ("Waiting Time Subclass")

5. Plaintiff Yniguez submitted a PAGA notice to the LWDA on May 7, 2020, in accordance with the requirements of Labor Code section 2699.3(a). The PAGA notice alleged that Airgas and Airgas Carbonic had violated the various California Labor Code sections alleged in his class action complaint.

1 6. On July 27, 2020, Plaintiff filed a PAGA complaint in the Superior Court of the State of
2 California, Los Angeles County, Case No. 20STCV28508, in which he alleged the following causes of
3 actions: (1) violation of California Labor Code sections 2698, et seq. (Private Attorney General Act of
4 2004), which includes allegations of (a) failure to pay wages including overtime; (b) failure to provide meal
5 periods for every work period exceeding more than ten (10) hours per day and failure to pay an additional
6 hour's of pay or accurately pay an additional hour's of pay in lieu of providing a meal period; (c) failure to
7 provide rest breaks for every four hours or major fraction thereof worked and failure to pay an additional
8 hour's of pay or accurately pay an additional hour's of pay in lieu of providing a rest period; (d) failure to
9 pay all wages earned and owed upon separation from Defendants' employ; and (e) failure to provide
10 accurate itemized wage statements (hereinafter, "PAGA Complaint" or "PAGA Action").

11 7. On September 21, 2020, Airgas and Airgas Carbonic timely answered the class action
12 complaint with a general denial and asserted various affirmative defenses.

13 8. On September 30, 2020, Airgas and Airgas Carbonic similarly timely answered the PAGA
14 complaint with a general denial and various affirmative defenses. Shortly thereafter, Defendants filed a
15 motion to consolidate the two actions.

16 9. On November 30, 2020, the Parties stipulated that Plaintiff would dismiss the PAGA-only
17 case, Case No. 20STCV28508, and would amend his class action complaint to add his PAGA claim to the
18 lower-numbered class action.

19 10. On December 11, 2020, Plaintiff filed a First Amended Complaint ("FAC") to add an
20 eighth cause of action for civil penalties pursuant to the Private Attorneys' General Act of 2004, Labor
21 Code Section 2698, et seq. ("PAGA") to the class action complaint—effectively consolidating the two
22 actions. The separate PAGA action was dismissed on January 8, 2021.

23 11. Airgas filed an answer to the FAC on or about January 13, 2021. At all time, Defendants
24 disputed that it had violated California wage and hour law and, further, maintained that Plaintiff's claims
25 were not appropriate for class or representative adjudication for numerous reasons.

26 12. Defendants continue to deny, each and every material allegation, dispute, and claim raised
27 in the underlying actions. Defendants have at all times denied, and continue to deny, all of these allegations,
28 and denies any and all liability for Plaintiff's claims. Defendants further deny that Plaintiff's allegations are

1 appropriate for class, and/or representative treatment for any purpose other than for settlement purposes
2 only.

3 13. On June 14, 2021, the Parties attended a full-day mediation session with Michael
4 Dickstein, an experienced wage and hour class action and PAGA-action mediator to attempt to resolve the
5 Class Action and PAGA Action. On the day of the mediation, after a full day of arms-length negotiations,
6 the Parties failed to reach an agreement to settle all of the claims alleged in Plaintiff's PAGA Complaint
7 and the Class Action Complaint. However, with the continuing assistance of Mr. Dickstein over months,
8 the Parties later reached an agreement regarding a resolution of the claims. At all times, the Parties'
9 negotiations were adversarial and non-collusive.

10 14. Since the filing of the Action and through execution of the Settlement, Class
11 Counsel conducted a thorough investigation into the facts underlying the claims asserted in the
12 complaint. Prior to mediation, Plaintiff's Counsel conducted a thorough investigation into the
13 factual and legal issues implicated by Plaintiff's claims and were able to objectively assess the
14 settlement's reasonableness.

15 15. Indeed, prior to filing the action, Plaintiff provided to Class Counsel the factual
16 bases for pursuing his actions against Defendants for Labor Code violations. Plaintiff was
17 intimately familiar with Defendants' labor policies and practices, and over the course of multiple
18 interviews, knowledgeably summarized those policies and practices. Plaintiff explained how the
19 policies and practices were instituted and provided valuable insight into how they gave rise to the
20 alleged Labor Code violations. Based on these interviews, Plaintiff's Counsel determined that
21 there were legally sufficient grounds for pursuing the Actions against Defendants. And in
22 preparation for drafting the complaints, Plaintiff's Counsel conducted their own independent
23 preliminary investigations into the factual bases for Plaintiff's claims, which entailed, *inter alia*, a
24 careful examination of Plaintiff's personnel files and associated records.

25 16. Plaintiff's Counsel propounded formal discovery requests (requests for production
26 and special interrogatories) and informal discovery requests to prepare for mediation. Defendant
27 responded to both. Plaintiff's Counsel received a considerable amount of documents and data,
28 Plaintiff's personnel file, time sheets, earnings statements, and acknowledgements; employee

1 demographic data; class size information; hiring and termination dates; pay rates; a sampling of
2 timecards and time history; a sampling of earning statements; pay data and records; and
3 Defendant's policies and procedures manuals which covered a broad range of topics including,
4 *inter alia*, employee clock-in policies and procedures, attendance policies, meal periods/rest
5 periods, overtime & premium pay, etc. Defendants also provided substantial information
6 concerning the total number of potential class members, the payroll data at issue, and the
7 applicable hourly rates, workweeks and pay periods, and other summary data related to the alleged
8 class. The Parties shared damages information with the mediator and each other for purposes of
9 reaching a settlement. Plaintiff also engaged an expert to review the time and pay data produced
10 and assist with the creation of a damages model.

11 17. The Parties have conducted themselves in informed, good faith arms-length
12 negotiations after conducting discovery and exchanging extensive evidence and information about
13 the claims and defenses of this lawsuit through informal discovery, and engaging in pre-mediation
14 discussions, telephone conferences, and correspondence all aimed at settling their dispute. The
15 document and data exchanges allowed Plaintiff's Counsel to fully assess the nature and magnitude
16 of the claims being settled, as well as the impediments to recovery, and ultimately enabled
17 Plaintiff's Counsel so as to make an independent assessment of the reasonableness of the
18 settlement's terms.

19 18. In summary, Class Counsel performed a thorough investigation into the claims at
20 issue, which included: (1) determining Plaintiff's suitability as private attorney general and class
21 representative through interviews, investigations, and analyses of his employment files and related
22 records; (2) evaluating all of Plaintiff's potential representative and class claims; (3) engaging in
23 formal and informal discovery, which included production of relevant data; Defendant's
24 timekeeping, meal period and rest break policies; documents evidencing Defendant's handbooks,
25 policies and procedures for managing payment for all hours worked, meal periods and rest breaks;
26 and other relevant information, including Plaintiff's personnel and payroll file; (4) exchanging
27 documents, data, and information based on time and pay records for the putative Class Members
28 to determine the number of current and former putative class members who worked during the

1 relevant time period, the total number of workweeks at issue, the average hourly rate for the
2 putative class and aggrieved employees; (5) researching similar wage and hour class actions as to
3 the claims brought, the nature of the positions, and the type of employer; (6) analyzing employees'
4 time, pay, and wage records; (7) reviewing Defendant's employment policies and practices; (8)
5 researching settlements in similar cases; (9) evaluating Plaintiff's claims and estimating
6 Defendant's potential liability for purposes of settlement; (10) drafting the mediation brief; and
7 (11) participating in the mediation.

8 19. By engaging in such a thorough investigation and evaluation of Plaintiff's claims,
9 Class Counsel can opine that the Settlement, for the consideration and on the terms set forth in
10 the Settlement Agreement, is fair, reasonable, an adequate, and is in the best interests of Class
11 Members in light of all known facts and circumstances, including the risk of significant delay and
12 uncertainty associated with litigation, and various defenses asserted by Defendants .

13 20. Defendants categorically deny all of the above-mentioned assertions and
14 allegations raised in and in support of the claims in the Action. To that end, Defendants have
15 denied and continues to deny each, and all of the allegations, claims, and contentions alleged by
16 the Plaintiff in the Action. Defendants have expressly denied and continues to deny all charges of
17 wrongdoing or liability against it arising out of any of the conduct, statements, acts or omissions
18 alleged in the Action. Defendants contend that they complied in good faith with wage and hour
19 laws and have dealt legally and fairly with Plaintiff and putative class members. Defendants
20 further deny that, for any purpose other than settling the Action, these claims are appropriate for
21 class or representative treatment. To date, no class has been certified and no court has made any
22 findings that Defendants engaged in any wrongdoing or in any wrongful conduct, or otherwise
23 acted improperly or in violation of any law, rule or regulation with respect to any of the issues
24 presented in this action. Nonetheless, the Parties have concluded that further proceedings in the
25 Action would be protracted and expensive and that it is desirable that the Action be fully and
26 finally settled in the manner and upon the terms and conditions set forth in this Settlement in
27 order to dispose of burdensome and protracted litigation, to permit the operation of Defendants '
28 business without further expensive litigation and the distraction and diversion of its personnel

1 with respect to matters at issue in the Action. Defendants have also taken into account the
2 uncertainty and risks inherent in any litigation, especially in complex cases such as the Action.
3 Defendants have, therefore, determined that it is desirable and beneficial to it that the Action be
4 settled in the manner and upon the terms and conditions set forth in Settlement.

5 21. Defendants supply industrial, medical, and specialty gases as well as hardgoods and
6 related products throughout California. Plaintiff worked as a non-exempt employee performing
7 various tasks relating to Defendants ' business.

8 22. The Parties were represented by experienced class action counsel throughout the
9 negotiations resulting in this Settlement. Plaintiff is represented by James Hawkins, APLC. Class
10 Counsel employs seasoned class action attorneys who regularly litigate wage and hour claims
11 through certification and on the merits, and have considerable experience settling wage and hour
12 class actions. Defendants are represented by Faegre, Drinker, Biddle, & Reath, LLP, a respected
13 and seasoned defense firm.

14 23. In preparation for the mediation, Plaintiff's counsel reviewed the entirety of the
15 documents and information produced with the assistance of an expert. The information produced
16 was extrapolated and processed to create a comprehensive damages model. The evidence and
17 information gathered and reviewed by counsel provided a factual framework for a comprehensible
18 and reliable damage model pertaining to all Participating Class Members. The mediation included
19 discussions and examination of the proposed Class and the Parties' respective positions on the
20 legal and factual issues raised in the Complaint.

21 24. As a result of the mediation, the Parties agreed to settle this matter for a Maximum
22 Gross Settlement Amount of \$500,000.00.

23 25. Through the discovery, information exchange and settlement negotiation process,
24 the Parties have refined the definition of the Class whose claims will be resolved by the
25 Settlement. Pursuant to the Settlement Agreement, the "Class" is defined to include all
26 individuals who were employed by Defendant Airgas USA, LLC or Airgas Carbonic, Inc. in
27 California in their Dry Ice Divisions as non-exempt/hourly employees during the "Class Period"
28 of May 8, 2016 to the date of Preliminary Approval (the "Class Member(s) or "Class"). (Ex. 1,

1 Settlement, ¶ 7-8). The “Aggrieved Employees” are defined to include all individuals who were
2 employed by Airgas USA, LLC or Airgas Carbonic, Inc. in California in their Dry Ice Divisions as
3 non-exempt/hourly employees during the “PAGA Period” of May 7, 2019 to the date the Court
4 grants Preliminary Approval. (Ex. 1, Settlement, ¶ 2, 25.). It is estimated that the Class consists
5 of approximately 272 individuals. (Ex. 1, Settlement, ¶ 99.). It was also estimated that at the time
6 of mediation, the Class Period included 24,797 workweeks.

7 26. Counsel for the Parties investigated the applicable law as applied to the facts
8 discovered regarding the claims of Plaintiff, Defendants’ defenses thereto and the damages
9 claimed by Plaintiff on behalf of the Settlement Class. Plaintiff’s counsel balanced the terms of
10 the proposed Settlement against the risk of litigation and probable outcome at the class
11 certification stage, and if any Class were certified, at trial. Based on their own respective
12 independent investigations and evaluations, and after taking into account the sharply disputed
13 factual and legal issues involved in this matter, the risks attending further prosecution of the case,
14 Defendants’ defenses, and the monetary benefits received under the Settlement, Plaintiff’s
15 counsel is of the opinion that Settlement for the consideration and on the terms set forth in the
16 Settlement Agreement is fair, reasonable and adequate and is in the best interests of Plaintiff and
17 the Class.

18 27. I believe that the consideration and terms set forth in the Settlement Agreement are
19 fair, reasonable, and adequate and are in the best interests of the Settlement Class in light of all
20 known facts and circumstances, including the various defenses asserted by Defendants, and
21 numerous potential appellate issues. In addition, the prospect of a potential adverse summary
22 judgment ruling, as well as the uncertainty of class certification, the difficulties of complex
23 litigation, the lengthy process of establishing specific damages and various possible delays and
24 appeals, were also carefully considered in agreeing to the proposed Settlement.

25 28. The Gross Settlement Amount includes, without limitation, attorneys’ fees of
26 33.3% of the Gross Settlement Amount (estimated at \$166,500.00) (“Attorneys’ Fees”) plus
27 litigation costs according to proof (estimated not to exceed \$27,000.00) (“Costs”); (3) class
28 representative incentive award not to exceed \$7,500.00 to Plaintiff (“Incentive Award”); (4) all

1 litigation costs according to proof (estimated not to exceed \$27,000.00) (“Costs”); (3) class
2 representative incentive award not to exceed \$7,500.00 to Plaintiff (“Incentive Award”); (4) all
3 settlement administration fees and costs (estimated not to exceed \$15,000.00) (“Settlement
4 Administration Costs”); (5) Penalties paid pursuant to PAGA in the amount of \$50,000.00
5 (“PAGA Allocation”) of which seventy five percent (75%) or \$37,500.00 will be paid the LWDA¹
6 and twenty five percent (25%) or \$12,500.00 will be distributed pro rata to all Aggrieved
7 Employees. This is a non-reversionary settlement. Defendant will separately pay all employer-
8 side payroll taxes with funds outside of the Gross Settlement Amount. (Ex. 1, ¶ 15.) After
9 estimated Court-approved deductions, the Net Settlement Amount is estimated to be
10 approximately \$246,000 (\$12,500 of which is allocated to PAGA). Assuming approval of all
11 allocations and equal distribution, the average award is estimated to be approximately \$904.41 per
12 Class Member (\$246,000/272 Class Members).

13 29. Fairness of the Settlement is demonstrated by the uncertainty and risks to Plaintiff
14 involved both in not prevailing on one or more of the causes of action or theories alleged in the
15 operative Complaint and in non-certification, and if successful, Defendant’s dispute of the ability
16 of Plaintiff to maintain certification in this case. Defendant also argued it maintained lawful
17 written policies that were provided to the class members. Yet, despite the defenses proffered by
18 Defendant, the proposed Settlement commits Defendant to pay each Class Member a portion of
19 the NSA. The amount to be paid to the Class is fair, adequate and reasonable given the significant
20 risk to Plaintiff and the Class in continuing with the litigation and not prevailing on their claims at
21 class certification or at trial or not being paid anything even if trial was successful.

22 30. The predominant claims in this action arise from alleged violations of California
23 law with respect to Defendants’ failure to provide meal periods and permit and authorize rest
24 periods, failing to pay overtime at the correct rate, and failing to pay all wages earned at
25 termination. Plaintiff alleges that these practices resulted directly from the implementation and

26 _____
27 ¹ The Motion for Preliminary approval along with a copy of the Settlement Agreement was filed
28 with the LWDA on March 24, 2022.

1 applicable policies and procedures were legally complaint. In addition, Defendants argued that a
2 number of Plaintiff's claims were preempted by the federal Motor Carrier Safety Action of 1984
3 applicable to all drivers in the purported class. Defendants further argued that they maintained
4 legally compliant policies regarding timekeeping, off the clock work, meal periods, rest periods,
5 and wage payments, and that to the extent there were any violations, they were anecdotal and
6 could not be proven on a class-wide or representative basis. Defendants argued that they properly
7 paid minimum wages and overtime as required by law. Defendants contended that the evidence
8 proves that there was no standard policy of rounding employee time punches. In addition,
9 Defendants denied that they failed to properly pay the regular rate of pay for overtime hours
10 worked. Defendants further argued that, even assuming there was a lack of preemption as to
11 certain members of the Class, to the extent a meal or rest period was missed, late or short, it was a
12 matter of individual preference and the existence of a violation could not be determined without an
13 evaluation of the circumstances of each instance. Defendants argued that these issues were
14 accordingly not ripe for certification. Defendants contended that Plaintiff's derivative wage
15 statement and waiting time claims failed for the same reasons that the underlying claims failed.
16 Further, with regard to final payment of wages, Defendants argued that as a matter of policy and
17 practice, wages were timely paid in connection with termination. Defendants contended that any
18 anecdotal evidence to the contrary constituted a one-off situation but was not indicative of any
19 wide-spread policy or practice.

20 32. Plaintiff also acknowledged that the Labor Code section 203 claim was uncertain given
21 the defenses asserted for the underlying meal and rest break claims and potential lack of evidence
22 of the "willfulness" prong necessary for a Labor Code § 203 claim. Further, California's Second
23 District Court of Appeals in *Naranjo, et al. v. Spectrum Security Services, Inc.* held that unpaid premium
24 wages for meal break violations do not entitle employees to additional remedies under the California
25 Labor Code for inaccurate wage statements or waiting time penalties. Class Counsel recognized these
26 risks of an adverse finding on certification as to these claims.

27 33. Defendants' time keeping records, payroll records, and other relevant data points, were
28 analyzed with the assistance of an expert to come up with a damage model to determine

1 Defendants' exposure.

2 34. Plaintiff's counsel also recognized that class certification was somewhat uncertain
3 given the numerous hurdles that had to be cleared under the California Supreme Court decision in
4 *Brinker Restaurant Corp. v. Superior Court*. Plaintiff also considered Defendants' arguments that
5 subsequent decisions citing and relying on the U.S. Supreme Court decision in *Wal-Mart v. Dukes*,
6 564 U.S. 338 (2011) arguably made it more difficult to certify a class in this case based upon the
7 need to demonstrate that common issues are superior and could be dealt with in "one stroke" and
8 that the "trial by formula" (*Duran v. U.S. Bank* (2014) 59 Cal.4th 1172) could not satisfy such
9 requirements based upon due process grounds. While Plaintiff disagreed that the subsequent
10 decisions citing *Walmart* applied to the facts in this case, Plaintiff acknowledged the associated
11 risks. Additionally, Plaintiff believes the cases denying certification are distinguishable and that
12 the facts in this case are more akin to the facts in cases where certification had been granted.
13 Nevertheless, Class Counsel recognizes the risk of an adverse finding on certification and
14 considered and weighed this risk in determining to settle and compromise these claims. Lastly,
15 Plaintiff believe the decisions in *Sav-On Drug Stores, Inc. v. Sup. Ct.*, (2004) 34 Cal. 4th 319, 340
16 and *Bell v. Farmers Ins. Exchange*, (2004) 115 Cal. App. 4th 715 provide the applicable framework
17 for class certification trial by formula plans. See also *Duran v. Superior Court*, 2014 Cal. LEXIS
18 5569 (Cal. Aug. 13, 2014).

19 35. Further, beyond the risk of an adverse ruling on the merits or certification, Class
20 Counsel considered the fact that continued litigation would likely take years and would be
21 extremely expensive given the breadth and complexity of the claims. In this case, post-trial and
22 appellate proceedings are likely to occur, which will surely drag the case far into the future even
23 with a positive trial result. When facing a distant and unsure resolution of the allegations in this
24 action, the swift, sure and substantial Settlement is all the more reasonable. Avoiding such costly
25 litigation in favor of more immediate benefits to the Class was a consideration favoring settlement.
26 Given these realities, it is highly likely that the future expense of this litigation, and its likely
27 duration if the settlement is not approved, would be significant and weigh heavily in favor of
28 approval of this settlement.

1 36. The GSA is well within the acceptable range of reasonableness for the claims of the
2 Participating Class Members. After analysis and review of Defendant's time and pay record
3 production and other payroll data with Plaintiff's expert, Class counsel estimates the overall
4 maximum value of the claims exclusive of PAGA to be approximately \$4.8 million should
5 Plaintiff prevail at the class certification stage and at trial on all claims in their entirety and survive
6 any appeals. Plaintiff estimated the total maximum liability including PAGA (at \$100 for a single
7 violation throughout the PAGA period) to be approximately \$5.38 million. As of the time of the
8 mediation, there were an estimated 24,797 workweeks and 13,324 pay periods during the class
9 period, approximately 110,353 shifts, and approximately 5,365 pay periods during the PAGA
10 Period. Based upon the expert review of the wages paid and records provided, the value of the
11 failure to pay wages including overtime claim due to failure to pay the correct regular rate was
12 \$74,755. Assuming a 100% violation rate on shifts over 3.5 hours, Defendants owe class
13 members in premium wages \$2,274,748 for missed rest periods (\$21.41 avg. regular rate x
14 106,247 eligible shifts). Plaintiff further estimated Defendants owe class members in premium
15 wages \$1,258,351.34 for missed meal periods (\$21.41 avg. regular rate x 58,774 violations).
16 Defendants owe to class members \$430,850 in wage statement violations. Defendants owe to
17 class members \$802,618.08 in waiting time penalties (142 employees x 8.8 hours per day x 30
18 days x \$21.41 avg hourly rate). Plaintiff also estimated that assuming one violation at \$100 per
19 pay period Defendants owe to class members \$536,500 in PAGA penalties (5,365 pay periods x
20 \$100). If PAGA penalties were stacked and subsequent violation rates applied, Plaintiff estimated
21 the overall maximum value of the PAGA claims (including LC 226.3) to be approximately \$7.4
22 million at \$100/\$200 and \$250/\$1000 for LC 226.3.

23 37. Based on these figures, taking into account the risks associated with continued
24 litigation and certification, Defendant's defenses, and differences in the Parties' estimates of
25 violation rates, Plaintiff estimated that the total realistic liability for the crux of Plaintiff's claims
26 was approximately \$1.34 million. Thus, the \$500,000 million settlement is approximately 37.3%
27 of the realistic liability. Thus, I respectfully submit that the settlement is well within the ballpark
28 of reasonableness.

1 38. As a result, the GSA of 500,000 represents a reasonable recovery. The proposed GSA
2 is within the “ballpark of reasonableness” and should be approved. Counsel for Plaintiff believe
3 that this is a fair and reasonable Settlement in light of the complexities of the case, the state of the
4 law and uncertainties of class certification and litigation, the policies and practices Defendants has
5 had in place or implemented during the purported liability period, and the benefit to be recovered
6 for the Class. Given the risks inherent in litigation, this settlement is fair, adequate, and reasonable
7 and is in the best interests of the Settlement Class, and should be preliminarily approved.

8 39. Based on the estimated Net Settlement Amount of \$246,500 (\$12,500 of which is
9 allocated to Individual PAGA payments), provides on average each Settlement Class Member
10 with approximately \$904.41 per Class Member (\$246,500/272). The lowest amount a Settlement
11 Class Member will receive is \$9.94 and the highest amount a Settlement Class Member will
12 receive is approximately \$3,041.64 (approximately 306 workweeks). To the extent any amount for
13 Attorneys’ Fees, Costs, Settlement Administration Costs or Incentive Awards are not awarded, the
14 difference in those amounts will be added to the NSA. This is a guaranteed amount of money paid
15 to Participating Class Members now, rather than the continued risk of further litigation and
16 receiving no money sometime in the far future and after trial and appeals.

17 40. The Class Representative has provided extensive supporting documents and
18 assisted Class Counsel in developing information necessary to litigate and settle this case. Plaintiff
19 also conducted record review and consultation with counsel in preparation for discovery and
20 eventual mediation, and to assist in evaluating and proving the claims. The settlement provides for
21 an Incentive Payment to be paid to the Class Representative in the amount of \$7,500 subject to
22 Court approval. The purpose is to compensate the Class Representative an additional enhanced
23 incentive payment, taking into consideration the risks, time, effort and expenses incurred in
24 coming forward to provide invaluable information and negotiate and litigate this matter on behalf
25 of all Participating Class Members who otherwise, would probably not file their own individual
26 claims to recover what may be relatively low damages. Further, the Incentive Payment of
27 \$7,500.00 as an Incentive award to the Class Representative is a very fair and justified as part of
28 the Settlement based on the risks Plaintiff has taken and benefits conferred upon the Settlement

1 Class. I respectfully submit that the Incentive Award is fair and reasonable compensation for
2 Plaintiff's effort in pursuing the action, assisting counsel with the litigation and settlement,
3 regularly conferring with counsel on the status of their case and the strategies for prosecuting the
4 claims, and reviewing the proposed settlement to ensure that its terms are fair and provide
5 adequate relief for the Class.

6 41. Class certification, as requested by the Parties for the purposes of the settlement
7 only, should be granted because Plaintiff allege that the proposed Participating Class Members'
8 claims all stem from the same alleged conduct, i.e., that Defendants violated California law as a
9 matter of policy and practice because they: (1) failed to pay minimum wages; (2) failed to pay
10 overtime wages; (3) failed to provide meal periods; (4) failed to permit rest breaks; (5) failed to
11 provide accurate itemized wage statements; (6) failed to pay all wages due within the required
12 time and upon separation of employment; and (7) engaged in a violation of Business and
13 Professions Code §§ 17200, *et seq.* In addition to compensatory damages and penalties, Plaintiff
14 and the Class seek restitution, attorneys' fees, costs, and interest. Accordingly, Plaintiff's interests
15 are entirely coextensive with the interests of the Class. Plaintiff maintains that Plaintiff was
16 injured by the same company-wide practices to which the proposed Settlement Class was subject
17 and seek the same relief. Under these specific circumstances, the commonality requirement for
18 class certification is satisfied. The typicality requirement for certification is also met as it is
19 alleged that the Class Representatives and the proposed Settlement Class were subjected to similar
20 violations based upon similar conduct, policies and practices.

21 42. The adequacy requirement for certification is also met. The Class Representative
22 and Class Counsel have prosecuted this action vigorously on behalf of the Settlement Class. The
23 Class Representative will receive a reasonable award for the time and effort spent assisting Class
24 counsel with factual issues surrounding the case. Other than this specific payment to the Class
25 Representative, all of the Participating Class Members will receive a proportionate share of the
26 NSA, as detailed above provided they do not exclude themselves. Further, all Aggrieved
27 Employees during the PAGA Period will receive their pro rata share of the 25% of the PAGA
28 Allocation for distribution to the Aggrieved Employees. As a result, there is no conflict of interest

1 between the Class Representative and the Participating Class Members. Further, the NSA will be
2 fairly distributed among Participating Class Members, and no “settlement allocation” questions
3 will be raised.

4 43. Common questions of law and fact predominate over individual questions and
5 class-wide treatment of this dispute is superior to individual litigation. Plaintiff alleges that the
6 proposed Settlement Class in this case is sufficiently cohesive, since all Participating Class
7 Members share a common nucleus of facts and potential legal remedies, and since all of the
8 Participating Class Members and the Class Representative seek compensation for unpaid wages
9 and premiums, and other civil and statutory penalties from Defendants for the allegations
10 described in the Complaints. Moreover, the California statutes relating to each of Plaintiff’s
11 claims, and Airgas’ defenses thereto, apply with equal force and effect to all Class Members.
12 Factually, Plaintiff contends that Defendant’s policies and practices apply class-wide and
13 Defendant’s liability can be determined by facts common to all members of the class. Members.
14 By way of example, common questions about compensation or lack thereof for work performed by
15 Participating Class Members and the Participating Class Members’ potential legal remedies are
16 identical. The alternative method of resolution is individual claims for relatively small amounts of
17 damages, but individual cases would be uneconomical for potential plaintiffs because the cost of
18 litigation dwarfs potential recovery. The wage and hour issues are both numerous and substantial.
19 Therefore, a class action is the preferred method of resolution.

20 44. The class notice plan here calls for the Settlement Administrator, CPT Group, Inc..
21 to mail a Notice of Proposed Class Action Settlement to all known and reasonably ascertainable
22 Participating Class Members based on Defendant’ records. Further, the Settlement Administrator
23 will conduct a skip-trace and use all reasonable efforts to locate Participating Class Members and
24 will re-mail all returned envelopes with forwarding addresses. The notice is consistent with the
25 class certification notices approved by numerous state and federal courts, and is the best notice
26 practicable under circumstances of this case. The proposed Participating Class Members are
27 ascertainable because all of the Participating Class Members have worked for Defendants during
28 the Class Period and can be identified through Defendants’ records. To the best of my knowledge,

1 neither party or its counsel owns or is affiliated with CPT.

2 45. The Notice also fulfills the neutrality requirement. It summarizes the proceedings
3 to date and the terms and conditions of the Settlement in an informative and coherent manner, and
4 is accurate, objective, and understandable to Participating Class Members, as is required under
5 prevailing precedent. The Notice clearly states the Settlement does not constitute an admission of
6 liability by Defendants and recognizes the Court has not ruled on the merits. It also states the final
7 settlement approval decision has yet to be made. The Notice also clearly instructs the Participating
8 Class Members on how to object or exclude themselves from the Settlement. Therefore,
9 Participating Class Members will have the option to participate or exclude themselves simply by
10 following the instructions in the notice. The Settlement Class consists of primarily of non-exempt
11 employees who speak English. Thus, the Notice of Class Action Settlement is drafted in a manner
12 that is likely to be readily understood by the Settlement Class. Accordingly, the Notice complies
13 with the standards of fairness, completeness and neutrality required of a Notice of Class Action
14 Settlement. The Notice therefore is neutral, objective and understandable.

15 46. I have a great deal of experience in wage and hour class action litigation. I have
16 obtained certification of numerous classes. I have also been approved as class counsel in many
17 other wage/hour class actions, and I am currently litigating numerous others. Although not an all-
18 inclusive list, over the years I have prosecuted the following class action matters as lead and/or co-
19 lead counsel, all of which implicated similar law and facts to those associated with this action:

20 a. *Aguilar v. 7-Eleven, Inc., et. al.*, Orange County Superior Court- Case No.: 30-
21 2009-00268714-CU-OE-CXC. Certified Wage and Hour Class action seeking premium
22 wages for meal period and rest periods and resultant penalties. Class
23 Notice pending.

24 b. *Carey, et. al. v. Arthur J. Gallagher, et. al.*, USDC, SOUTHERN DISTRICT- Case
25 No.: 09-cv-0168. Wage and Hour Class action seeking past wages of overtime for mis-
26 classification of insurance claims adjusters employed by Gallagher Bassett, a third
27 party administrator (TPA) in the State of California. Certification granted. Plaintiffs'
28 counsel co-lead counsel. Case settled, Final Approval granted, no objections and funds

1 fully distributed.

2 c. *Dao v. 3M Company*, et al. USDC, CENTRAL DISTRICT, Case No. CV-08-
3 04554. Wage and Hour Class Action case seeking past wages for “off the clock”,
4 overtime and meal and rest break violations for production workers in the State of
5 California. Plaintiffs’ Counsel appointed as Lead Counsel. Case settled, Final Approval
6 granted, no objections and funds fully distributed.

7 d. *Ortiz v. Kmart*, USDC, CENTRAL DISTRICT, Case No. SACV 06-638 ODW.
8 Wage and Hour Class Action case seeking past wages for meal and rest period
9 violations for non-exempt employees in the State of California. Plaintiffs’ counsel
10 appointed co-lead counsel. Case settled, Final Approval granted, no objections and
11 funds fully distributed.

12 e. *Morgan v. Aramark Campus*, LLC, USDC, CENTRAL DISTRICT, Case No.
13 SACV08-00412. Wage and Hour Class Action case seeking past wages for meal and
14 rest period violations for non-exempt employees in the State of California. Plaintiffs’
15 Counsel appointed as Lead Counsel. Case settled, Final Approval granted, no
16 objections and funds fully distributed.

17 f. *West v Iron Mountain Information Management, Inc, et. al.*; Los Angeles County
18 Superior Court, Case No. BC393709. Wage and Hour Class Action seeking past wages
19 for overtime, meal and rest break violations for driver employees in the State of
20 California. Settlement for “binding arbitration.” Arbitration Award for Plaintiff Class.
21 Arbitration Award confirmed. Plaintiffs’ counsel, lead trial counsel and class counsel.

22 g. *Gonzalez v. Superior Industries Inter, Inc., et al.*, Los Angeles County Superior
23 Court, Case No. BC 357912. Wage and Hour Class Action seeking past wages for
24 overtime, meal and rest breaks violations for production employees in the State of
25 California. Plaintiffs’ counsel appointed as lead counsel. Case settled, Final Approval
26 granted, no objections and funds fully distributed.

27 h. *Acosta v. Fleetwood Travel Trailers of California, Inc.*, et al., Riverside County
28 Superior Court, Case No. RIC 440630. Wage and Hour Class Action seeking past

1 wages for overtime, meal and rest break violations for production employees in the
2 State of California. Plaintiffs' counsel appointed as co-lead counsel. Case settled, Final
3 Approval granted, no objections and funds fully distributed.

4 i. *Walker v. Sharkeez, et al.*, Orange County Superior Court, Case No. 05CC00293.
5 Wage and Hour Class Action seeking past wages for unlawful deductions, meal and
6 rest break violations for restaurant employees in the State of California. Plaintiffs'
7 counsel appointed as lead counsel. Case settled, Final Approval granted and funds fully
8 distributed.

9 j. *Padron v. Universal Protection Service, et al*, Orange County Superior Court, Case
10 No. 05CC00013. Wage and Hour Class Action seeking past wages for overtime, meal
11 and rest break violations for security officers in the State of California. Plaintiffs'
12 counsel appointed as co-lead counsel. Case settled, Final Approval granted, no
13 objections and funds fully distributed.

14 k. *Martinez v. Securitas Security Services USA, et al.*, Santa Clara Superior Court,
15 Case No. 105-CV047499, et al. J.C.C.P. No. 4460. Wage and Hour Class Action
16 seeking past wages for meal and rest break violations for security officers employed by
17 Defendants in the State of California. Plaintiffs' counsel and co-counsel. Case settled,
18 Final Approval granted and funds fully distributed.

19 l. *Velasquez-Lopez v. Hotel Cleaning Services, Inc. et al.*, Riverside Superior Court,
20 Case No. RIC 420909. Wage and Hour Class Action seeking past wages for overtime,
21 meal and rest break violations for housekeepers employed by Defendants in the State
22 of California. Plaintiffs' counsel appointed as lead counsel. Case settled, Final
23 Approval granted, no objections and funds fully distributed.

24 m. *Ruiz, et al. v. Unisourse Worldwide, Inc., et al.*, USDC, CENTRAL DISTRICT,
25 Case No. CV09-05848. Wage and Hour Class Action seeking past wages for meal and
26 rest period violations for non-exempt employees employed by Defendants in the state
27 of California. Case settled. Awaiting Preliminary Approval hearing. Plaintiff has
28 petitioned the Court for Lead Counsel.

1 n. *Herrador v. Culligan International Company, et al.*, USDC, CENTRAL
2 DISTRICT, Case No. SACV 08-680. Wage and Hour Class Action seeking past wages
3 for field and branch employees of Defendants in the State of California. Plaintiffs'
4 counsel appointed as lead counsel. Case settled and awaiting Final Approval.

5 o. *Defries v. Domain Restaurants, et al.*, Orange County Superior Court, Case No.
6 05CC00128. Wage and Hour Class Action seeking past wages for restaurant
7 employees of Defendants in the State of California. Plaintiffs' counsel appointed as
8 lead counsel. Case settled, Final Approval granted, no objections and funds fully
9 distributed.

10 p. *Denton v. BLB Enterprises, Inc., et al.*, Orange County Superior Court, Case No.
11 07CC01292. Wage and Hour Class Action seeking unpaid overtime, meal and rest
12 break violations for security guards employed by Defendants in the State of California.
13 Plaintiffs' counsel appointed as lead counsel. Case settled, Final Approval granted, no
14 objections and funds fully distributed.

15 q. *Rios v. Sandberg Furniture Manufacturing Co., Inc, et al.*, Los Angeles Superior
16 Court, Case No. BC411477. Wage and Hour Class Action seeking unpaid meal and
17 rest break violations for production employees employed by Defendants in the State of
18 California. Plaintiff counsel appointed as lead counsel. Case settled, Final Approval
19 granted, no objections and funds fully distributed.

20 r. *McMurray v. Dave and Busters, Inc.*, et al., Orange County Superior Court, Case
21 No. 06CC00099. Wage and Hour Class Action seeking past wages for meal and rest
22 break violations for restaurant employees employed by Defendants in the State of
23 California. Plaintiffs' counsel appointed as co-lead counsel. Case settled, Final
24 Approval granted, no objections and funds fully distributed.

25 s. *Osuna v. DFG Restaurants, Inc.*, et al., Los Angeles Superior Court, Case No. BC
26 330145. Wage and Hour Class Action seeking past wages of overtime for mis-
27 classification of managers employed by Defendant, DBA Carl's Jrs. in the State of
28 California. Plaintiffs' counsel appointed as co-lead counsel. Case settled, Final

1 Approval granted, no objections and funds fully distributed.

2 t. *Burns v. Gymboree Operations, Inc.*, et al., San Francisco Superior Court, Case No.
3 CGC-07-461612. Wage and Hour Class Action seeking past wages for meal and rest
4 break violations for non-exempt employees employed by Defendants in the State of
5 California. Plaintiffs' counsel appointed lead counsel. Case settled, Final Approval
6 granted, no objections and funds fully distributed.

7 u. *Willems v. Diedrich Coffee, Inc.*, et al., Orange County Superior Court, Case No.
8 07CC00015. Wage and Hour Class Action seeking past wages of overtime for mis-
9 classification of managers employed by Defendants in the State of California.
10 Plaintiffs' counsel appointed lead counsel. Case settled, Final Approval granted, no
11 objections and funds fully distributed.

12 v. *Davila, et al. v. Beckman Coulter, Inc.*, et al., Orange County Superior Court, Case
13 No. 07CC01347. Wage and Hour Class Action seeking past wages for overtime, meal
14 and rest break violations for production workers employed by Defendants in the State
15 of California. Plaintiffs' counsel appointed lead counsel. Case settled; final approval
16 granted; no objections and funds fully distributed.

17 w. *Perez v. Naked Juice Company of Glendora, Inc.*, Los Angeles Superior Court,
18 Case No. BC387088. Wage and Hour Class Action seeking past wages for overtime,
19 meal and rest period violations for production employees employed by Defendants in
20 the State of California. Plaintiff counsel appointed as lead counsel. Case settled, Final
21 Approval granted, no objections and funds fully distributed.

22 47. Here, the Parties' agreement to pay Class Counsel Fees of 33.3% (estimated up to
23 \$166,500) of the GSA is reasonable. My firm and I have been the only counsel to represent
24 Plaintiff the Settlement Class in this matter, and we have borne the entire risk and cost of this
25 litigation on a pure contingency fee basis. The legal issues raised drew significantly upon our
26 experience and the extensive review and analysis of documents and information by me and others
27 at my firm. In a complex action such as this, the proposed attorneys' fees are, at the very least, on
28 the low side of the market rate for contingency fees as we have invested numerous hours and costs

1 into the litigation of this matter.

2 48. Additional hours will be required due to the administration of the Settlement by Class
3 Counsel, administration of the Settlement, and preparation for final approval, the attorneys' fees
4 exceed the requested amounts. To the extent the Court would like to receive detail regarding the
5 hours our firm has invested in this matter as Class Counsel, we will provide this information to the
6 Court in advance of the final approval hearing. Plaintiff's counsel will file a motion for attorneys'
7 fees and costs to be heard concurrently with the motion for final approval in accordance with the
8 terms of the settlement agreement.

9 49. Despite the complexity of the case, Class Counsel has, through the investment of
10 substantial effort and the resources of my law firm been able to secure an outstanding settlement
11 on behalf of the Settlement Class. Plaintiff would have faced substantial legal and factual
12 obstacles in demonstrating that class certification was appropriate. Plaintiff would also have been
13 required to establish a significant amount of witness testimony, pattern and practice evidence,
14 statistical evidence, sampling evidence, expert testimony, and other evidence in order to present
15 their case both at the class certification stage and trial. Defendants vigorously contested liability,
16 the amount of claimed damages, and the propriety of class certification, and would have continued
17 to do so through trial. Accordingly, I believe the Settlement to be fair, reasonable, and adequate
18 and in the best interests of the Settlement Class. The fairness and adequacy of the Settlement is
19 confirmed by all known facts and circumstances, including the risk of significant delay and
20 uncertainty associated with litigation, the various defenses asserted by Defendant, and numerous
21 potential appellate issues.

22 I declare under penalty of perjury that the foregoing is true and correct. Executed on March 21,
23 2022 at Irvine, California.

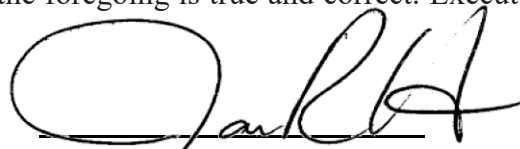
24 
25 James R. Hawkins
26
27
28

EXHIBIT 4

1 **JAMES HAWKINS, APLC**
JAMES R. HAWKINS (State Bar No. 192925)
2 James@jameshawkinsaplc.com
3 CHRISTINA M. LUCIO (State Bar No. 253677)
Christina@jameshawkinsaplc.com
4 9880 Research Drive, Suite 200
Irvine, California 92618
5 Telephone: (949) 387-7200
6 Facsimile: (949) 387-6676

7 Attorneys for Plaintiff
CHARLES YNIGUEZ
8

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **COUNTY OF LOS ANGELES**

11 CHARLES YNIGUEZ, individually and on
12 behalf of all others similarly situated,

13 Plaintiff,

14 vs.

15 AIRGAS USA, LLC, a Delaware limited
16 liability corporation; AIRGAS CARBONIC,
17 INC., a Delaware corporation; and DOES 1
through 20, inclusive,

18 Defendants.
19
20
21
22

Case No. 20STCV18190

Assigned for All Purposes to:
Hon. Elihu M. Berle, Dept. 6

**SUPPLEMENTAL DECLARATION OF
JAMES R. HAWKINS IN SUPPORT OF
PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

Date: September 8, 2022
Time: 8:30 a.m.
Dept: 6

Complaint Filed: May 8, 2020
FAC Filed: December 11, 2020
Trial Date: None

1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8

1. I am an attorney licensed to practice before all courts in the State of California. I am the attorney and principal of James Hawkins APLC, counsel for Plaintiff Charles Yniguez (“Plaintiff”) in the captioned action. Unless indicated otherwise, I have personal knowledge of the following facts in this declaration and, if called as a witness, I could and would testify to these facts under oath in court.
2. I submit this supplemental declaration in support of Plaintiff’s Motion for Preliminary Approval of Class Action Settlement and to submit revised documents to cure the deficiencies raised by the Court at the hearing on Plaintiff’s Motion for Preliminary Approval on June 21, 2022.
3. This action was reassigned to the Honorable Elihu M. Berle effective May 8, 2020.
4. Plaintiff submitted his Motion for Preliminary Approval for the Court’s approval on June 21, 2022.
5. On June 21, 2022, the Court heard and reviewed the Motion for Preliminary Approval of Plaintiff’s filings. Upon review, the Court issued a ruling requiring that changes be made to the Settlement Agreement and related documents prior to approval.
6. Attached hereto as **Exhibit 1** is a true and correct copy of the June 21, 2022 Order issued by the Court.
7. Pursuant to the Parties’ stipulation, the hearing on Plaintiff’s Motion for Preliminary Approval was continued to September 8, 2022.
8. Plaintiff filed the Second Amended Complaint on July 19, 2022 per the Court’s Order.
9. The Parties met and conferred regarding the deficiencies identified by the Court and agreed to revise the Settlement Agreement and Class Notice to cure the deficiencies identified by the Court and comply with the Court’s requirements.
10. The Parties request that the Court grant preliminary approval of the Amended Joint Stipulation of Class Action Settlement.
11. A true and correct copy of the Amended Joint Stipulation of Class Action Settlement is attached hereto as **Exhibit 2**.
12. A true and correct copy of the redlined Amended Joint Stipulation of Class Action Settlement is attached hereto as **Exhibit 3**.

1 Settlement is attached hereto as **Exhibit 3**.

2 13. A true and correct copy of the revised Class Notice is attached hereto as **Exhibit 4**.

3 14. A true and correct copy of the redlined Class Notice is attached hereto as **Exhibit 5**.

4
5 I declare under penalty of perjury under the laws of the State of California that the foregoing is
6 true and correct. Executed on August 16, 2022 in Irvine, California.
7

8
9 
10 James R. Hawkins
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT 5

Class Period: May 8, 2016 - Sep 16, 2022
Class Size: 308
Date Notices Mailed: Oct 13, 2022

Exclusion Deadline: Dec 13, 2022
Objection Deadline: Dec 13, 2022
Final Approval Hearing: Jan 23, 2023

	Description	Count
Mail	Items in Mailing List	307
	Notices Returned	5
	Notices Traced	4
	Notices Rемаiled	4
	Forwarded Notices	1
	Notices Returned 2nd Time	
	Undelivered Notices	1
* Includes Forwarded Notices		
Responses	Responses Received	
	Opt Outs	
	Objections	
	Disputes	
	Deficient	
	Late Opt Outs	
	Invalid	
	"Valid" Opt Outs**	
** Includes Deficient and Late Opt Outs		
Class	No. of Class Members in Mailing List	307
	No. of Valid Opt Outs	
	% Valid Opt Outs	0.00 %
	Total Class Members – Less Opt Outs	307

Distribution List:

James R. Hawkins; Christina M. Lucio;
Cheryl D. Orr; Kristin M. Halsing; Kristin Olive; Caroline Guensberg

CPT Class Action Representatives:

Julie Green; Jackie Hitomi; Abel Morales; Tim Cunningham; Tarus Dancy; Carole Thompson
Emilio Cofinco; Jennifer Forst; Jeremy Romero; Erin La Russa; Jeremy Talavera; Laura Singh; Irvin Garcia;
Katie Tran; Alejandra Zarate

Please note these numbers and statistics are for your reference only and will change throughout the administration process. Final numbers and statistics shall be obtained from Case Manager once response deadlines have passed and all responses have been properly validated.

EXHIBIT 6

Matter Billing Detail

Report Date: 11/10/2022
 Report Time: 2:59PM
 Page: 1 of 3
 User ID: Miccolis

JAMES HAWKINS APLC

Date Range: 01/01/1900 to 11/10/2022
 Client: AIRGAS01 - Charles Yniguez
 Matter: AIRGAS0012 - Airgas USA LLC- Charles Yniguez -8190

Date	Expense Code	Description	Debit	Credit	Billing Status	On Hold	Invoice Number	Check Number	Payee
		Balance Forward:	\$0.00						
05/07/2020	FST	First Legal Network - Filing, Complaint, Civil Case Cover, Summon IN#30128864	\$1,644.75		Unbilled				
05/08/2020	FIL	Filing Fee LWDA CK#8646	\$75.00		Unbilled				
05/21/2020	POS	Postage- LWDA	\$8.99		Unbilled				
06/26/2020	FST	First Legal Network- FILED- Ntc of Minute Order and ISC Order SERVED- Complaint, Summons, Civil Cover Sheet IN#30131279	\$293.67		Unbilled				
07/01/2020	FST	First Legal Network- FILED- POS(2); plf's SC Statement and Request to cont. SERVED- Complaint; civil case; summons; order IN#30133807	\$511.87		Unbilled				
08/21/2020	FST	First Legal Network - Filed, Dec of SAS re OSC, Joint initial status conference status, Proof of service 3 IN#30136335	\$156.75		Unbilled				
09/02/2020	CCL	CourtCall - 09.01.20 Initial Status Conference and Order to Show Cause for SAS	\$30.00		Unbilled				
11/10/2020	CCL	Court Call - LACourtConnect 11.09.2020 Status Confernece for SAS	\$15.00		Unbilled				
11/25/2020	FST	First Legal Network Notice of Non-Opp to Mtn to Consolidate IN#30143879	\$52.25		Unbilled				
12/03/2020	CAS	Case Anywhere E-Service- System Access Fee & Document Service Fee- in#207064	\$156.00		Unbilled				
12/09/2020	CCL	Court Call - LACourtConnect 12.09.20 Hearing on Motion to Consolidate for MJM (covering for SAS)	\$15.00		Unbilled				
12/11/2020	FST	First Legal Network FAC, Notice of Ruling IN#30146136	\$84.60		Unbilled				
12/22/2020	CRT	Court Documents - 11.09.2020 Minute Order	\$1.00		Unbilled				
03/04/2021	CAS	Case Anywhere E-Service-System Access Fee & Document Service - In#215196	\$132.00		Unbilled				
04/27/2021	MED	Mediation Services- Michael E. Dickstein CK#9195	\$11,500.00		Unbilled				
06/04/2021	CAS	Case Anywhere E-Service-System Access Fee In#223567	\$120.00		Unbilled				

Matter Billing Detail

Report Date: 11/10/2022
Report Time: 2:59PM
Page: 2 of 3
User ID: Miccolis

JAMES HAWKINS APLC

Date	Expense Code	Description	Debit	Credit	Billing Status	On Hold	Invoice Number	Check Number	Payee
07/21/2021	CCL	Court Call- 07.09.21- La court connect- Post mediation Status Conference- SAS	\$15.00		Unbilled				
08/26/2021	EXA	Expert Analysis- IN#4586 CK#9397	\$150.00		Unbilled				
08/26/2021	EXA	Expert Analysis- IN#4518 CK#9396	\$5,450.00		Unbilled				
09/03/2021	CAS	Case Anywhere E-Service-System Access Fee and Doc service Fee- in#231941	\$120.00		Unbilled				
09/09/2021	FST	First Legal Network - Filing, Plf's notice of minute order , E-Filing, notice of settlement IN#30172635	\$88.45		Unbilled				
12/06/2021	FST	First Legal Network - E-Filing , Status report , Plaintiffs notice of December 14 IN#30182125	\$72.40		Unbilled				
12/07/2021	CAS	Case Anywhere E-Service	\$132.00		Unbilled				
03/24/2022	FST	First Legal Network - E-Filing, Declaration of James R. Hawkins IN#30192286	\$103.70		Unbilled				
03/31/2022	FST	First Legal Network - E-Filing - Notice of Proof of Service IN# 30195930	\$37.70		Unbilled				
06/08/2022	CAS	Case Anywhere E-Service- Invoice #256877	\$156.00		Unbilled				
07/01/2022	FST	First Legal Network - Filed Stipulation to Continue Deadline In30205948	\$59.70		Unbilled				
07/19/2022	FST	First Legal Network - Filed Amended Complaint IN30205948	\$37.70		Unbilled				
08/17/2022	ONE	One Legal Services- Supplemental Dec of J. Hawkins- In#04297432	\$17.19		Unbilled				
09/15/2022	FST	First Legal Network - E-Filing, [Prop] Order Granting Prelim IN#30212421	\$37.70		Unbilled				
09/23/2022	CAS	Case Anywhere E-Service - IN#265475	\$138.00		Unbilled				
11/10/2022	FIL	Filing Fee Final Approval estimated costs	\$350.00		Unbilled				
Total:			\$21,762.42	\$0.00					
Balance:			\$21,762.42						

Matter Billing Detail

JAMES HAWKINS APLC

Date	Expense Code	Description	Debit	Credit	Billing Status	On Hold	Invoice Number	Check Number	Payee
Total Fees Billed- - - - -			\$0.00						
Total Fees Unbilled : - - - - -			\$0.00						
Total Fees Received : - - - - -			\$0.00						
Total Soft Cost Billed : - - - - -			\$0.00						
Total Soft Cost Unbilled : - - - - -			\$0.00						
Total Soft Cost Received : - - - - -			\$0.00						
Total Hard Cost Billed : - - - - -			\$0.00						
Total Hard Cost Unbilled : - - - - -			\$21,762.42						
Total Hard Cost Received : - - - - -			\$0.00						
Total Taxes Billed : - - - - -			\$0.00						
Total Taxes Unbilled : - - - - -			\$0.00						
Total Taxes Received : - - - - -			\$0.00						
Total Late Charges Billed : - - - - -			\$0.00						
Total Late Charges Unbilled: - - - - -			\$0.00						
Total Late Charges Received : - - - - -			\$0.00						
Trust Balance: - - - - -			\$0.00						

Matter Billing Detail

JAMES HAWKINS APLC

Date Range: 01/01/1900 to 11/10/2022
Client: AIRGAS01 - Charles Yniguez
Matter: AIRGASUSA003 - Airgas USA LLC-PAGA-Charles Yniguez

Date	Expense Code	Description	Debit	Credit	Billing Status	On Hold	Invoice Number	Check Number	Payee
Balance Forward:			\$0.00						
07/27/2020	FST	First Legal Network- FILED- PAGA complaint; civil case cover sheet IN#30133807	\$1,634.95		Unbilled				
08/31/2020	FST	First Legal Network - Filed, Initial Documents, Served, Initial documents, Filed, Initial Documents IN#30136335	\$517.31		Unbilled				
09/03/2020	FST	First Legal Network Filed: Proof of Service (2) IN#30139041	\$84.22		Unbilled				
01/20/2021	FST	First Legal Network Notice of case reassignment IN#30149229	\$36.20		Unbilled				
Total:			\$2,272.68	\$0.00					
Balance:			\$2,272.68						

Matter Billing Detail

JAMES HAWKINS APLC

Date	Expense Code	Description	Debit	Credit	Billing Status	On Hold	Invoice Number	Check Number	Payee
Total Fees Billed-----			\$0.00						
Total Fees Unbilled : -----			\$0.00						
Total Fees Received : -----			\$0.00						
Total Soft Cost Billed : -----			\$0.00						
Total Soft Cost Unbilled : -----			\$0.00						
Total Soft Cost Received : -----			\$0.00						
Total Hard Cost Billed : -----			\$0.00						
Total Hard Cost Unbilled : -----			\$2,272.68						
Total Hard Cost Received : -----			\$0.00						
Total Taxes Billed : -----			\$0.00						
Total Taxes Unbilled : -----			\$0.00						
Total Taxes Received : -----			\$0.00						
Total Late Charges Billed : -----			\$0.00						
Total Late Charges Unbilled: -----			\$0.00						
Total Late Charges Received : -----			\$0.00						
Trust Balance: -----			\$0.00						

EXHIBIT 7

Time Ticket Diary Report

Report Date: 11/10/2022
 Report Time: 3:00PM
 Page: 1 of 10
 User ID: Miccolis

JAMES HAWKINS APLC

Date Range: 01/01/1900 to 11/10/2022
 Timekeeper: All
 Client: AIRGAS01 Charles Yniguez
 Matter: AIRGAS0012 Airgas USA LLC- Charles Yniguez -8190
 Billing Type: All
 Task Code: All
 Hold Status: All (both Held and Non-Held)
 Billing Status: Unbilled Only
 Sorted by: Timekeeper,Date,Client

Client Number Client Name	Matter Number	Date Matter Description	Ticket Number	Hours	Amount	Type	Task Code	Activity Code	Held	Billing Status
EK	Erika khaine									
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	06/02/2021 Airgas USA LLC- Charles Yniguez -8190 Review mediation brief for SAS	4	0.70	315.00	BL			No	Unbilled
Totals For:EK				0.70	315.00					
JRH	James Hawkins									
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	04/20/2020 Airgas USA LLC- Charles Yniguez -8190 receipt of voicemail from potential client; crs w/ MLW re apt	24	0.50	450.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	04/23/2020 Airgas USA LLC- Charles Yniguez -8190 meeting w/ new client; intake; retainer and client docs	26	4.50	4,050.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	04/29/2020 Airgas USA LLC- Charles Yniguez -8190 due diligence re new case; conf w/ SAS re complaint; filing	29	1.50	1,350.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	05/06/2020 Airgas USA LLC- Charles Yniguez -8190 redline revisions to complaint; crs w/ SAS re same; email MLW re filing	30	1.50	1,350.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	07/27/2020 Airgas USA LLC- Charles Yniguez -8190 crs and review paga; conf w/ SAS re same	70	1.00	900.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	09/01/2020 Airgas USA LLC- Charles Yniguez -8190 crs and conf re courtcall	38	0.50	450.00	BL			No	Unbilled

Time Ticket Diary Report

Report Date: 11/10/2022
 Report Time: 3:00PM
 Page: 2 of 10
 User ID: Miccolis

JAMES HAWKINS APLC

Client Number Client Name	Matter Number	Date Matter Description	Ticket Number	Hours	Amount	Type	Task Code	Activity Code	Held	Billing Status
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012 r/r pos	09/03/2020 Airgas USA LLC- Charles Yniguez -8190	73	0.10	90.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012 receipt and review of min order; crs	11/09/2020 Airgas USA LLC- Charles Yniguez -8190	46	0.20	180.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012 prep; review and conf call	11/25/2020 Airgas USA LLC- Charles Yniguez -8190	53	1.00	900.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012 receipt and review of non-opp to mtn; crs re same	11/25/2020 Airgas USA LLC- Charles Yniguez -8190	42	0.40	360.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012 crs and conf mtn to consolidate	12/08/2020 Airgas USA LLC- Charles Yniguez -8190	89	0.80	720.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012 crs and emails w/ SAS re courtcall; email MLW re same	12/09/2020 Airgas USA LLC- Charles Yniguez -8190	44	0.60	540.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012 r/r notice	01/20/2021 Airgas USA LLC- Charles Yniguez -8190	74	0.10	90.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012 receipt of voicemail from client; returned phone call re status; memo	02/10/2021 Airgas USA LLC- Charles Yniguez -8190	92	0.70	630.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012 crs and conf re brief; memo	06/02/2021 Airgas USA LLC- Charles Yniguez -8190	63	1.00	900.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012 begin to review file; docs; data for mediation prep	06/07/2021 Airgas USA LLC- Charles Yniguez -8190	90	5.90	5,310.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012 prep for mediation	06/08/2021 Airgas USA LLC- Charles Yniguez -8190	55	7.10	6,390.00	BL			No	Unbilled

Time Ticket Diary Report

Report Date: 11/10/2022
 Report Time: 3:00PM
 Page: 3 of 10
 User ID: Miccolis

JAMES HAWKINS APLC

Client Number Client Name	Matter Number	Date Matter Description	Ticket Number	Hours	Amount	Type	Task Code	Activity Code	Held	Billing Status
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	06/09/2021 Airgas USA LLC- Charles Yniguez -8190 due diligence for mediation; research; review; strategy discussions; conf	56	6.90	6,210.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	06/11/2021 Airgas USA LLC- Charles Yniguez -8190 data analysis; begin damage model; conf; strategy for mediation	58	8.00	7,200.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	06/12/2021 Airgas USA LLC- Charles Yniguez -8190 continued due diligence for mediation; finalize damage model	59	7.50	6,750.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	06/13/2021 Airgas USA LLC- Charles Yniguez -8190 phone call w/ client; conf w/ SAS; prep; review; strategy	61	7.90	7,110.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	06/14/2021 Airgas USA LLC- Charles Yniguez -8190 prep; review and participate in mediation	52	9.50	8,550.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	06/29/2021 Airgas USA LLC- Charles Yniguez -8190 crs; email re mediation; conf w/ mediator; discussions w/ SAS re same	62	1.50	1,350.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	07/08/2021 Airgas USA LLC- Charles Yniguez -8190 f/up w/expert re mediation data	10	0.50	450.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	07/09/2021 Airgas USA LLC- Charles Yniguez -8190 crs and conf re courtcall; phone call w/ client	51	1.00	900.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	07/12/2021 Airgas USA LLC- Charles Yniguez -8190 f/up w/expert re data; crs re same	9	0.30	270.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	07/14/2021 Airgas USA LLC- Charles Yniguez -8190 review/analysis of damages analysis; conference call with expert re damages analysis; email re same	11	1.50	1,350.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	07/14/2021 Airgas USA LLC- Charles Yniguez -8190 expert analysis; review; conf re same	78	1.50	1,350.00	BL			No	Unbilled

Time Ticket Diary Report

Report Date: 11/10/2022
 Report Time: 3:00PM
 Page: 4 of 10
 User ID: Miccolis

JAMES HAWKINS APLC

Client Number Client Name	Matter Number	Date Matter Description	Ticket Number	Hours	Amount	Type	Task Code	Activity Code	Held	Billing Status
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	07/15/2021 Airgas USA LLC- Charles Yniguez -8190 review; conf w/ SAS and mediator;analysis; memo	77	1.50	1,350.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	08/05/2021 Airgas USA LLC- Charles Yniguez -8190 receipt of voicemail from mediator; returned call, email exchange w/mediator re teleconference	13	0.50	450.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	08/23/2021 Airgas USA LLC- Charles Yniguez -8190 review crs w/ mediator; conf w/ SAS re same; phone call	76	1.00	900.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	08/26/2021 Airgas USA LLC- Charles Yniguez -8190 crs re expert analysis; conf; email; review	64	0.80	720.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	09/08/2021 Airgas USA LLC- Charles Yniguez -8190 conf w/ mediator; crs w/ SAS; phone call	79	1.00	900.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	09/13/2021 Airgas USA LLC- Charles Yniguez -8190 crs and emails re mediation update	80	0.50	450.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	09/13/2021 Airgas USA LLC- Charles Yniguez -8190 email exchange w/mediator re mediator's proposal; review and edit draft MOU	20	1.20	1,080.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	09/15/2021 Airgas USA LLC- Charles Yniguez -8190 email exchange w/mediator and def counsel re settlement	21	0.50	450.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	10/05/2021 Airgas USA LLC- Charles Yniguez -8190 crs; review; mou; conf re same	81	1.00	900.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	01/07/2022 Airgas USA LLC- Charles Yniguez -8190 strategy discussions; conf	82	0.70	630.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	01/29/2022 Airgas USA LLC- Charles Yniguez -8190 conf; strategy; prelim; docs; crs re same; memo	85	1.20	1,080.00	BL			No	Unbilled

Time Ticket Diary Report

Report Date: 11/10/2022
 Report Time: 3:00PM
 Page: 5 of 10
 User ID: Miccolis

JAMES HAWKINS APLC

Client Number Client Name	Matter Number	Date Matter Description	Ticket Number	Hours	Amount	Type	Task Code	Activity Code	Held	Billing Status
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	03/04/2022 Airgas USA LLC- Charles Yniguez -8190 crs prelim; reports; review; conf re same	88	0.80	720.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	03/08/2022 Airgas USA LLC- Charles Yniguez -8190 estimate of hours needed for case closure	83	20.00	18,000.00	BL			No	Unbilled
Totals For:JRH				104.20	93,780.00					
MLW	Melissa Whitson									
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	04/20/2020 Airgas USA LLC- Charles Yniguez -8190 crs w/ JRH re potential new case; phone call; calendar	25	0.40	80.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	04/23/2020 Airgas USA LLC- Charles Yniguez -8190 assist JRH w/ new client meeting; retainer; intake and client docs	27	4.50	900.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	04/25/2020 Airgas USA LLC- Charles Yniguez -8190 scan all docs; open file on network; abacus; calendar and email	28	1.10	220.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	05/07/2020 Airgas USA LLC- Charles Yniguez -8190 prep docs; file and calendar	31	0.60	120.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	05/08/2020 Airgas USA LLC- Charles Yniguez -8190 prep; lwda; file	32	0.50	100.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	06/26/2020 Airgas USA LLC- Charles Yniguez -8190 serve complaint; confirm and email	34	0.40	80.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	06/26/2020 Airgas USA LLC- Charles Yniguez -8190 ntc of min; prep; file; calendar	33	0.50	100.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	07/01/2020 Airgas USA LLC- Charles Yniguez -8190 prep; file and calendar	35	0.40	80.00	BL			No	Unbilled

Time Ticket Diary Report

Report Date: 11/10/2022
 Report Time: 3:00PM
 Page: 6 of 10
 User ID: Miccolis

JAMES HAWKINS APLC

Client Number Client Name	Matter Number	Date Matter Description	Ticket Number	Hours	Amount	Type	Task Code	Activity Code	Held	Billing Status
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	07/27/2020 Airgas USA LLC- Charles Yniguez -8190 prep docs; file; calendar and email	69	0.60	120.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	08/21/2020 Airgas USA LLC- Charles Yniguez -8190 first legal; file dec; confirm; calendar; email	36	0.50	100.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	08/31/2020 Airgas USA LLC- Charles Yniguez -8190 initial docs; file; calendar	71	0.50	100.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	09/02/2020 Airgas USA LLC- Charles Yniguez -8190 crs; schedule; confirm and calendar courtcall; email re same	37	0.60	120.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	09/03/2020 Airgas USA LLC- Charles Yniguez -8190 pos; filed; email	72	0.40	80.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	11/10/2020 Airgas USA LLC- Charles Yniguez -8190 schedule; confirm and calendar courtcall; crs re same	39	0.60	120.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	11/25/2020 Airgas USA LLC- Charles Yniguez -8190 prep; file; calendar	40	0.40	80.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	12/03/2020 Airgas USA LLC- Charles Yniguez -8190 case anywhere; email	41	0.50	100.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	12/09/2020 Airgas USA LLC- Charles Yniguez -8190 schedule courtcall; confirm; crs re same and calendar	43	0.50	100.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	12/11/2020 Airgas USA LLC- Charles Yniguez -8190 prep docs; file and calendar	45	0.50	100.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	12/22/2020 Airgas USA LLC- Charles Yniguez -8190 court docs; min order; email	47	0.30	60.00	BL			No	Unbilled

Time Ticket Diary Report

Report Date: 11/10/2022
 Report Time: 3:00PM
 Page: 7 of 10
 User ID: Miccolis

JAMES HAWKINS APLC

Client Number Client Name	Matter Number	Date Matter Description	Ticket Number	Hours	Amount	Type	Task Code	Activity Code	Held	Billing Status
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	01/20/2021 Airgas USA LLC- Charles Yniguez -8190 first legal; notice; calendar and email	75	0.40	80.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	03/04/2021 Airgas USA LLC- Charles Yniguez -8190 case anywhere; docs; email	48	0.40	80.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	06/04/2021 Airgas USA LLC- Charles Yniguez -8190 case anywhere	49	0.40	80.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	06/07/2021 Airgas USA LLC- Charles Yniguez -8190 assist w/ mediation prep per JRH	91	2.00	400.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	06/08/2021 Airgas USA LLC- Charles Yniguez -8190 prep file; docs; mediation binders; crs w/ JRH	54	3.20	640.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	06/09/2021 Airgas USA LLC- Charles Yniguez -8190 assist JRH w/ mediation prep; data	57	4.50	900.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	06/12/2021 Airgas USA LLC- Charles Yniguez -8190 finalize docs for mediation; assist JRH w/ prep	60	3.50	700.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	07/21/2021 Airgas USA LLC- Charles Yniguez -8190 crs; email; confirm courtcall; calendar	50	0.60	120.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	09/03/2021 Airgas USA LLC- Charles Yniguez -8190 case anywhere; email re same	65	0.40	80.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	09/09/2021 Airgas USA LLC- Charles Yniguez -8190 prep; file min order; calendar	66	0.50	100.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	12/06/2021 Airgas USA LLC- Charles Yniguez -8190 prep; file and calendar	67	0.50	100.00	BL			No	Unbilled

Time Ticket Diary Report

Report Date: 11/10/2022
 Report Time: 3:00PM
 Page: 8 of 10
 User ID: Miccolis

JAMES HAWKINS APLC

Client Number Client Name	Matter Number	Date Matter Description	Ticket Number	Hours	Amount	Type	Task Code	Activity Code	Held	Billing Status
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	12/07/2021 Airgas USA LLC- Charles Yniguez -8190	68	0.30	60.00	BL			No	Unbilled
		case anywhere								
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	01/31/2022 Airgas USA LLC- Charles Yniguez -8190	86	0.60	120.00	BL			No	Unbilled
		prep docs; file; calendar; email								
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	03/04/2022 Airgas USA LLC- Charles Yniguez -8190	87	1.20	240.00	BL			No	Unbilled
		crs; email w/ JRH; run reports; email								
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	03/08/2022 Airgas USA LLC- Charles Yniguez -8190	84	10.50	2,100.00	BL			No	Unbilled
		approximate time needed for case wrap up								
Totals For:MLW				42.80	8,560.00					

SAS Samantha Smith

AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	04/20/2020 Airgas USA LLC- Charles Yniguez -8190	2	2.50	1,875.00	BL			No	Unbilled
		mtg w/JH re status of case; Telephone Call w/client re case; research re case entity and related cases; email to JH re same								
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	04/22/2020 Airgas USA LLC- Charles Yniguez -8190	3	1.00	750.00	BL			No	Unbilled
		Telephone Call w/potential client/witness re potential case against Airgas; email exchange w/JH re status of case								
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	04/29/2020 Airgas USA LLC- Charles Yniguez -8190	1	1.00	750.00	BL			No	Unbilled
		mtg w/JH re potential case; review case docs; email to client re mtg								
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	06/14/2021 Airgas USA LLC- Charles Yniguez -8190	5	8.00	6,000.00	BL			No	Unbilled
		prep for and participate in mediation								
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	06/15/2021 Airgas USA LLC- Charles Yniguez -8190	6	0.50	375.00	BL			No	Unbilled
		review mediation notes and save to file; calendar f/up date w/mediator								
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	06/29/2021 Airgas USA LLC- Charles Yniguez -8190	7	2.50	1,875.00	BL			No	Unbilled
		f/up w/mediator re status of settlement negotiations; receipt of draft SC statement from def counsel; review and edit same; email exchange w/def counsel re same; email to JH re same								

Time Ticket Diary Report

JAMES HAWKINS APLC

Report Date: 11/10/2022
 Report Time: 3:00PM
 Page: 9 of 10
 User ID: Miccolis

Client Number Client Name	Matter Number	Date Matter Description	Ticket Number	Hours	Amount	Type	Task Code	Activity Code	Held	Billing Status
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	07/02/2021 Airgas USA LLC- Charles Yniguez -8190 review case file and mediation notes; Telephone Call w/JH and mediator re status of settlement negotiations; Telephone Call w/expert re damages analysis	8	1.25	937.50	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	07/15/2021 Airgas USA LLC- Charles Yniguez -8190 review case notes and damages; conference w/JH and mediator re settlement negotiations	12	1.00	750.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	08/05/2021 Airgas USA LLC- Charles Yniguez -8190 receipt of voicemail from mediator; email exchange w/JH and mediator re teleconference	15	0.50	375.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	08/06/2021 Airgas USA LLC- Charles Yniguez -8190 review case file and note re mediation; Telephone Call with JH and mediator re status of settlement negotiations; Telephone Call w/JH re settlement; Telephone Call with mediator re settlement negotiations	14	2.50	1,875.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	08/23/2021 Airgas USA LLC- Charles Yniguez -8190 f/up w/mediator re status of settlement negotiations; Telephone Call w/JH re same	16	1.00	750.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	08/30/2021 Airgas USA LLC- Charles Yniguez -8190 review case file; f/up w/mediator re settlement negotiations	17	0.50	375.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	09/07/2021 Airgas USA LLC- Charles Yniguez -8190 review case file and docket; email to staff re deadlines and notice re same; f/up email w/mediator re settlement negotiations; draft notice of order from status conference, prep for filing and service	18	1.50	1,125.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	09/08/2021 Airgas USA LLC- Charles Yniguez -8190 Telephone Call w/mediator re status of negotiations; review case file and notes re mediation; Telephone Call w/JH re same; f/up w/mediator re negotiations	19	1.20	900.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	10/05/2021 Airgas USA LLC- Charles Yniguez -8190 review edits to MOU; Telephone Call w/def counsel re same; edit MOU and circulate for comment	22	1.80	1,350.00	BL			No	Unbilled
AIRGAS01 Charles Yniguez Time Ticket Text:	AIRGAS0012	12/06/2021 Airgas USA LLC- Charles Yniguez -8190 draft joint SC report; forward to def counsel for review/comment; email exchange re same	23	1.00	750.00	BL			No	Unbilled
Totals For:SAS				27.75	20,812.50					

Time Ticket Diary Report

JAMES HAWKINS APLC

Report Date: 11/10/2022

Report Time: 3:00PM

Page: 10 of 10

User ID: Miccolis

Client Number	Matter	Date	Ticket	Hours	Amount	Type	Task	Activity	Held	Billing Status
Client Name	Number	Matter Description	Number				Code	Code		

Timekeepers Totals

Timekeeper:	EK	Type	Unbilled
		Billable Hours	0.70
		Total For EK	0.70
Timekeeper:	JRH	Type	Unbilled
		Billable Hours	104.20
		Total For JRH	104.20
Timekeeper:	MLW	Type	Unbilled
		Billable Hours	42.80
		Total For MLW	42.80
Timekeeper:	SAS	Type	Unbilled
		Billable Hours	27.75
		Total For SAS	27.75

Firm Totals

TYPE	Unbilled
Billable Hours	175.45
Grand Total:	175.45

Date	Hours	Description
CAMILLE BAYLIS		
2/2/22	0.1	Correspondence re: stipulation to continue Preliminary Approval
2/10/22	1.1	Draft Class Notice; Draft Request for Exclusion; Draft Opt-out Form Draft Notice of Motion for Preliminary Approval and Proposed Order re:
2/14/22	2.4	preliminary approval
2/14/22	0.7	Draft MPA for Motion for Preliminary Approval
2/15/22	0.2	Draft MPA for Preliminary Approval
2/16/22	2.1	Draft MPA for Preliminary Approval
2/17/22	0.8	Draft MPA for Preliminary Approval
2/17/22	0.3	Draft MPA for Preliminary Approval of Settlement
2/18/22	0.7	Draft MPA for Preliminary Approval
3/10/22	1.1	Draft Plf Declaration for Prelim Approval Draft Declaration of JRH ISO Preliminary Approval; Correspondence re:
3/10/22	1.4	drafted declaration Call to Client re: settlement and prelim approval motion; correspondence with client re: settlement and prelim approval motion; Correspondence with CML and Hawkins re: finalizing and filing
3/21/22	0.3	preliminary approval motion
3/23/22	0.1	Correspondence re: Settlement agreement
3/24/22	0.2	Correspondence re: JRH declaration; Confer with CML
4/5/22	0.1	Confer re Case status and deadlines Call to Court Clerk re: hearing; Review tentative rulings; confer with DP
6/21/22	0.3	re: case status
7/11/22	0.1	Confer with DP re: prelim order
Totals	12.00	\$ 2,400.00

CHRISTINA LUCIO

2/2/22	0.2	Correspondence re conference with client Review and revise Airgas - Yniguez - Joint Stipulation of Class
2/10/22	1.9	Settlement.DOCX
2/10/22	0.1	Review MOU
2/10/22	0.1	Correspondence with defense counsel re status
2/14/22	0.4	Conference with client re settlement
2/14/22	0.2	Notes re conference with client
2/16/22	0.2	Review defense counsel's edits to settlement agreement
2/16/22	0.2	Draft meet and confer correspondence re revisions to settlement
2/16/22	0.2	Research re LASC guidelines re prelim approval
2/17/22	0.2	Review defense edits to settlement agreement and correspondence
2/17/22	0.2	Review and revise settlement agreement
2/17/22	0.2	Correspondence re outstanding issues with settlement
2/17/22	0.1	Correspondence re stipulation
2/18/22	0.2	Review and revise stipulation re continuance
2/18/22	0.1	Correspondence with defense counsel Review Settlement Agreement re administration and make edits re
2/22/22	0.2	unclaimed wage fund.
2/22/22	0.2	Correspondence with prospective administrators

2/22/22	0.1 Notes re review
2/23/22	0.2 Correspondence with administrators
1/21/22	0.2 Conference re status
1/11/22	0.2 Correspondence re transfer
3/8/22	0.2 Correspondence with defense counsel
3/8/22	0.2 Review and finalize settlement agreement
3/8/22	0.1 Review administrator bids
3/9/22	6.8 Draft memorandum in support of motion, notice, and proposed order Correspondence with defense counsel re settlement and preliminary
3/9/22	0.2 approval
3/9/22	0.3 Review and revise class notice
3/9/22	0.2 Correspondence re class notice
3/9/22	1.8 Continue drafting MPA and related documents
3/10/22	0.2 Review and revise stipulation re continuance
3/10/22	0.1 Correspondence re stipulation re continuance
3/11/22	0.2 Review settlement agreement and finalize same for signature
3/11/22	0.2 Correspondence re settlement agreement and preliminary approval
3/11/22	0.1 Correspondence re settlement
3/13/22	0.1 Notes re status Review, revise and finalize MPA, notice, declarations and proposed
3/20/22	3.9 order Review edits to MPA, notice, declarations and proposed order and
3/18/22	0.9 revise same; correspondence re same
3/20/22	0.2 Correspondence with defense re MPA
3/20/22	0.1 Correspondence re MPA and related documents Multiple correspondence re finalizing agreements and documents for
3/21/22	0.2 filing
3/21/22	0.2 Correspondence with defense counsel
3/22/22	0.2 Multiple correspondence re preliminary approval.
3/23/22	0.2 Correspondence re preliminary approval.
1/27/22	0.2 Review and revise stipulation re continuance
1/27/22	0.2 Correspondence with defense counsel re stipulation
1/27/22	0.2 Multiple correspondence re status
1/27/22	0.2 Review correspondence with defense
2/1/22	0.2 Correspondence re stipulation to continue prelim approval filing
6/21/22	0.2 Conference re preliminary approval
7/1/22	0.3 Draft stipulation and proposed order re continuance of filing deadline
7/11/22	0.2 Conference re amendments to settlement and SAC Review and revise SAC, notice documents and settlement; crs with
7/13/22	0.5 defense counsel re same Draft stipulation re filing of amended complaint and finalize related
7/18/22	0.3 documents
7/18/22	0.3 Review and revise settlement documents and crs re same
7/18/22	0.2 Crs re outstanding issues
7/18/22	0.2 Crs with defense counsel re status and settlement

	Draft mailing documents; finalize documents for settlement and	
7/19/22	0.8 signature; conference re redline edits and iterations of the notice	
7/19/22	0.2 Crs with defense counsel re settlement and supplemental documents	
7/19/22	0.2 Crs re supplemental documents and submission	
8/2/22	0.2 Conference with defense counsel	
8/2/22	0.2 Review and revise stipulation	
9/8/22	0.5 Prepare for and attend hearing on preliminary approval	
9/8/22	0.2 Crs re dates and revisions	
9/13/22	0.6 Review and revise class notice; review and revise proposed order	
9/13/22	0.2 Crs with defense counsel re submissions	
9/15/22	0.2 Finalize documents for submission to court	
9/15/22	0.1 Crs re approval	
	Crs with defense counsel and administrator; review order; compile	
9/21/22	0.3 documents for administrator	
9/26/22	0.2 Crs with administrator	
9/29/22	0.2 Crs with defense counsel	
10/2/22	0.2 Review bids; crs re translation and settlement agreement	
10/6/22	0.2 Crs with administrator re data issues	
	Review correspondence with administrator; review settlement	
	agreement; review notice; research re pro rata increase and additional	
10/10/22	0.6 amounts; draft crs to administrator; conference re same	
10/11/22	0.2 Crs re revised data and notices; conference re same	
10/12/22	0.2 Review crs with administrator; crs re calculations and status.	
10/13/22	0.1 Crs with administrator	
10/16/22	0.2 Multiple crs re administration	
10/19/22	0.2 Conference re action and client inquiry; research in support of same	
11/11/22	0.2 Conference re final approval and status; crs re same	
	Conference re final approval documents; draft and revise proposed	
11/11/22	1.2 order; compile exhibits for declaration.	
11/11/22	0.1 Crs with defense counsel re judgment	
11/11/22	0.3 Review defense edits to final approval order; revise same	
	Review and revise motion for final approval and motion for fees and	
11/13/22	6.8 costs; draft Hawkins declaration; compile relevant documents	
11/14/22	2.1 Finalize motions for approval and fees/costs	
	Review and revise approval motion and fees/cost motion; review and	
11/12/22	1.9 revise supporting documents	
Totals	44.00 \$	28,600.00

MICHAEL CIPRIANO

	Compile files; research re status and dates; import case documents.	
6/21/22	0.3 Set up case file.	
	Research re pending hearings and deadlines, notes and	
7/1/22	0.2 correspondence re same.	
	Draft Stip, assemble exhibits, run redlines for Stip and Order, confer	
7/19/22	1.5 with atty, sort docs in file.	

8/16/22	0.5	Finalize amended joint stip for class action settlement, confer with atty. Research re pending hearing dates & deadlines re Motion for Final	
9/8/22	0.2	Approval. Notes and correspondence re same.	
Totals	2.70		\$540.00

MITCHELL MURRAY

4/5/22	0.1	conference re status	
6/30/22	0.3	Telephone call with client re update draft docs to comply with Court order for preliminary approval to be	
7/11/22	3.1	granted - sent to CML for review	
10/6/22	0.2	Conference with CML re strategy	
11/11/22	5.7	Begin drafting final approval documents and fees and costs motion	
Totals	9.4	\$	5,170.00

Hours Total	68.10
--------------------	--------------

EXHIBIT 8

JAMES HAWKINS APLC
James R. Hawkins, Esq. (#192925)
Christina M. Lucio, Esq. (#253677)
9880 Research Drive, Suite 200
Irvine, CA 92618
Tel.:(949) 387-7200
Fax:(949) 387-6697
Email: James@jameshawkinsaplc.com
Email: Christina@jameshawkinsaplc.com

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

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE

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

Plaintiff,

vs.

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

Defendants .

CASE NO. 20STCV18190

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

**DECLARATION OF CHARLES
YNIGUEZ IN SUPPORT OF MOTION
FOR FINAL APPROVAL OF CLASS
ACTION SETTLEMENT AND MOTION
FOR ATTORNEYS' FEES, COSTS, AND
CLASS REPRESENTATIVE SERVICE
AWARD**

Preliminary Approval Date: September 8, 2022
Final Approval Hearing: January 23, 2023
Time: 9:00 a.m.
Dept: 6

Complaint Filed: May 8, 2020
FAC Filed: December 11, 2020
Trial Date: None

DECLARATION OF CHARLES YNIGUEZ

I, Charles Yniguez, declare as follows:

1. I am a named plaintiff in this action, and commenced this action against my former employer. I have personal knowledge of all facts in this declaration and, if asked, I would testify to these facts under oath in court.

2. For the Court's ease in reference, I note that the vast majority of this declaration mirrors the facts and circumstances that I set forth in connection with my declaration in support of the Motion for Preliminary Approval. I submit this declaration in support of the Motion for Final Approval and the Motion for Attorneys' Fees, Costs, and Class Representative Service Award.

3. I understand that approximately 272 individuals are part of the Settlement Class and received notice of the settlement from the Settlement Administrator. These facts reinforce my belief that the Settlement we achieved with the assistance of my counsel is fair reasonable and adequate.

4. I worked as a non-exempt employee for Defendant Airgas USA, LLC, ("Defendant" or "Airgas") from approximately January 2016 to March 2020.

5. During my employment, I was not paid for all hours that I worked and was not properly paid overtime. I was also not paid in a timely manner upon separation from employment. I was not provided compliant meal and rest periods, or compensated premium pay when meal and rest periods were not lawfully provided. I also was not provided with my wages in a lawfully, timely manner upon my separation from employment with Defendant.

6. After meeting with my attorneys about these issues, I decided to proceed with a lawsuit against my former employer. At the time, I also agreed to represent all other similarly situated non-exempt hourly paid employees who worked for Defendant in California, and to obtain relief for the entire class. I also agreed to consider the interests of the class just as I would consider my own interest.

7. On May 8, 2020, I filed a Class action lawsuit with the Superior Court of California for the County of Los Angeles entitled, *Yniguez v. Airgas USA, LLC, et al*, Case No. 20STCV181190. My attorneys filed the class action complaint on behalf of myself and other non-

1 exempt employees of Defendants who were not paid for each hour working including minimum
2 wages and proper overtime, provided meal periods, authorized and permitted to take rest periods,
3 not paid all wages owed upon termination (the “Class Action”).

4 8. On July 27, 2020, I filed a representative action lawsuit under PAGA in the
5 Superior Court of the State of California, Los Angeles County, Case No. 20STCV28508, in which
6 I alleged the following causes of actions: (1) Violation of California Labor Code sections 2698, et
7 seq. (Private Attorney General Act of 2004), which includes allegations of (a) Failure to Pay
8 Wages Owed, Including Minimum Wage and Overtime, (b) Failure to Provide Lawful Meal
9 Periods or Compensation in Lieu Thereof, (c) Failure to Authorize or Permit Lawful Rest Periods
10 or Provide Compensation in Lieu Thereof, (d) Failure to Pay All Wages Due Upon Separation of
11 Employment, and (e) Failure to Provide Accurate Itemized Wage Statements (the “PAGA
12 Action”).

13 9. I understand that on November 30, 2020, my attorneys agreed to dismiss my PAGA
14 Action, Case No. 20STCV28508, and subsequently amended my Class Action complaint to add
15 my PAGA claim, resulting in a consolidation of all my claims against Defendant.

16 10. When I agreed to represent the class, I understood it was my duty to be readily
17 available and to participate actively in the case. I knew that I needed to keep aware of the status
18 and progress of the lawsuit and assist my attorneys in litigating the case on behalf of the Class. At
19 all times, I worked to fulfill these duties on behalf of the Class.

20 11. I also understood the risks I could face due to my involvement as a named plaintiff.
21 I understood that I could be held responsible for the payment of Defendant’s court-awarded
22 litigation costs and potentially attorneys’ fees if I did not prevail in the litigation. Therefore, I
23 realized that I was taking a significant amount of risk in filing the class action lawsuit.

24 12. I knew that my name could easily be located on a search of court records and that
25 any prospective employer may find out that I had sued my former employer.

26 13. Even though I knew I was taking risks, I knew I had to do what I believed was right
27 and pursue claims on behalf of other employees to vindicate our rights and attempt to recover the
28 wages owed to us.

1 14. My attorneys prepared and forwarded me a copy of the complaint for review in this
2 case. I thoroughly reviewed the complaint and discussed the contents of the complaint with my
3 attorneys.

4 15. I spent a substantial amount of time and effort pursuing my claims and the claims
5 of the other similarly situated employees from the time I retained my attorneys to this date.

6 16. During the litigation, I spent hours on telephone calls discussing the facts of my
7 case with the attorneys and staff of James Hawkins APLC. I spent hours discussing the facts
8 related to my employment with Defendant, including discussing my job duties and responsibilities
9 as a non-exempt employee, my experiences, Airgas's policies and practices, and the hours and
10 days I worked. I have also worked to identify witnesses and assist my attorneys in moving this
11 case forward. I was also involved in many discussions with my co-workers regarding the case and
12 the circumstances of our employment. I have also reviewed certain documents produced during
13 the information exchange process in this case to assist my attorneys in prosecuting this case and
14 ultimately preparing for a full day of mediation. I also remained available during the mediation in
15 order to assist with any questions or issues that arose.

16 17. I also spent hours looking for all documents related to my employment with
17 Defendant and sending them to my attorneys, which included wage statements, personnel
18 documents, emails, and separation paperwork. I further spent several hours on telephone calls
19 discussing the documents I provided to my attorneys.

20 18. My attorneys provided me with a copy of the proposed Settlement Agreement
21 which I reviewed carefully before signing it. I have discussed the terms and any questions I had
22 with my counsel. As a term of the settlement, I have agreed to give a broad release of all claims
23 that I had or might have against Defendant arising from my employment. No other Class Member
24 will be required to give such a release. I understand this is sometimes asked of Class
25 Representatives.

26 19. I have exchanged countless emails, phone calls, and other communications with my
27 counsel throughout the course of this case to ensure that I was aware of the status of the case, and
28 the progression of the Settlement process. I have extensively monitored the action throughout.

1 20. I estimate that I have spent 80-90 hours during the course of this case engaged in
2 tasks related to this litigation as set forth above.

3 21. It is my opinion that the proposed settlement achieved is fair, adequate and
4 reasonable. The overwhelmingly positive response of the Class reinforces this belief.

5 22. I understand that approximately 272 current and former employees of Defendants
6 will receive payments they would not otherwise have recovered but for the initiation of the case.

7 23. I have always considered the interests of the class just as I would consider my own
8 interest and placed the interests of the class above my own since I commenced the case against
9 Airgas. In addition, I believe I have put myself at risk by pursuing this lawsuit on behalf of myself
10 and other current and former employees of Defendant, and I understand that my participating in
11 this lawsuit could inhibit my ability to seek gainful employment in the future.

12 24. I am requesting the Court approve a \$7,500 Service Payment. I believe this amount
13 is reasonable considering the amount of work and time I spent with my attorneys to achieve this
14 excellent settlement. The time and service I provided to the Class resulted in the parties agreeing
15 to settle the case and a positive outcome for the entire Class, who will receive a share of the
16 settlement funds in this case.

17 25. I further believe the amount of the Class Representative Service Payment is very
18 reasonable considering the financial and professional risks I took by bringing a class action
19 lawsuit against my former employer, including the potential of paying court-awarded litigation
20 costs to Defendant and the negative exposure to future employers. I also gave a broad release of
21 all claims against Defendant arising from my employment (except those related to the arbitration)
22 that other Class Members did not have to give.

23 26. As I have been since May 2020, I am committed to this case and intend to continue
24 to participate as needed until the conclusion of this matter for the benefit of the Class.

25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Execute on November 10, 2022 in Whittier, California.


Charles Frank Yniguez (Nov 10, 2022 16:57 PST)
Charles Yniguez

EXHIBIT 9

THIS IS AN IMPORTANT COURT-APPROVED NOTICE. READ CAREFULLY.

Yniguez v. Airgas USA, LLC, et al.
 Los Angeles Superior Court - Case No. 20STCV18190

IF YOU WERE EMPLOYED AS A NON-EXEMPT/HOURLY-PAID EMPLOYEE IN THE DRY ICE DIVISION OF AIRGAS USA, LLC AND/OR AIRGAS CARBONIC, INC., A CLASS ACTION LAWSUIT MAY AFFECT YOUR RIGHTS.

This is a court-authorized notice. It is not a solicitation from a lawyer.

- You have been identified as a Class Member in a lawsuit brought by a former employee of Airgas USA, LLC (“Airgas”) and Airgas Carbonic, Inc. (“Airgas Carbonic”).
- The lawsuit alleges that Airgas and Airgas Carbonic failed to properly pay non-exempt employees in their Dry Ice Division for all hours worked (including overtime), failed to provide compliant meal periods and rest breaks, failed to timely pay wages owed upon separation, and failed to issue accurate itemized wage statements. The lawsuit also seeks penalties under the Private Attorney General Act, Labor Code section 2698 et. seq. Airgas maintains that it and Airgas Carbonic complied with California law, and that, in settling the lawsuit, they do not admit any of the allegations.
- The Court has preliminarily approved a class action settlement with Airgas (the “Settlement”), which will affect all individuals who were employed by Airgas and/or Airgas Carbonic as non-exempt/hourly employees in their Dry Ice Division at any time between May 8, 2016 and September 15, 2022.
- If the Court grants final approval of the Settlement, there will be money available to you.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT	
<u>PARTICIPATE IN THE SETTLEMENT – NO ACTION REQUIRED</u>	You do not need to do anything to participate in the Settlement. By doing nothing, you become part of the Class and will collect a settlement award as detailed below. But, you give up certain rights to sue Airgas separately.
<u>EXCLUDE YOURSELF FROM THE SETTLEMENT</u>	If you ask to be excluded from the Settlement, you won’t receive any settlement award. But, you keep any rights to sue Airgas separately.
<u>OBJECT TO THE SETTLEMENT</u>	If you wish to object to the Settlement, there are instructions below. If you object to the Settlement, you will remain a member of the Class, and if the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as Class Members who do not object.

- **Regardless of the option you choose, you will not be retaliated against for exercising your rights.**
- Your options are explained in this Notice. To object to the Settlement or to ask to be excluded, you must act before **December 13, 2022.**
- **Any questions?** Read on or contact Class Counsel or the Settlement Administrator listed below.

BASIC INFORMATION

1. Why did I get this notice?

Airgas' payroll records show that you currently work or previously worked for Airgas and/or Airgas Carbonic as a non-exempt/hourly-paid employee in their Dry Ice Division. This Notice explains that the Court has given preliminary approval to a settlement in a conditionally certified class action lawsuit that may affect you. You received this Notice because you have a right to know about the proposed Settlement of this lawsuit and about your rights and options before the Court decides whether to grant final approval of the Settlement. You have the right to participate in the Settlement and receive a cash payment from the settlement funds available. You also have the right to exclude yourself from this Settlement and seek to preserve your own rights to file a separate lawsuit on your own behalf. Lastly, you have the right to object to the terms of this Settlement or any part of it.

Judge Elihu M. Berle of the Superior Court of the State of California, County of Los Angeles, is overseeing this class action. The lawsuit is known as *Yniguez v. Airgas USA, LLC, et al.*, Case No. 20STCV18190.

2. What is this lawsuit about?

This lawsuit was filed by a former employee of Airgas and Airgas Carbonic named Charles Yniguez ("Plaintiff"). This lawsuit is about whether Airgas and/or Airgas Carbonic properly compensated non-exempt employees in their Dry Ice Divisions for all hours worked (including overtime), provided proper meal periods and rest periods, timely paid all wages owed upon termination of employment, and/or provided proper wage statements. In addition, Plaintiff alleged claims for interest, penalties, costs and/or attorneys' fees that are derivative of the claims described above. Plaintiff brought his lawsuit on behalf of himself and also sought to bring it on behalf of a Class consisting of all nonexempt/hourly employees employed by Airgas and/or Airgas Carbonic in their Dry Ice Division at any time between May 8, 2016 and September 1516, 2022. Based on Airgas' records, you are among the individuals included in the Class that Plaintiff sought to represent.

Throughout the litigation, Airgas has denied—and continues to deny—the factual and legal allegations in the case and has maintained that it has valid defenses to the claims. Airgas denies any wrongdoing and asserts that its and Airgas Carbonic's practices at all times complied with the law. However, Airgas has voluntarily agreed to the terms of a negotiated settlement, without any admission of fault, in order to avoid the burden and expense of further litigation.

3. What is a class action?

In a class action lawsuit such as this, persons called "Class Representatives" sue on behalf of other people who may have similar claims as part of a single lawsuit. The people together are a "Class" or "Class Members." In this lawsuit, Plaintiff (Mr. Yniguez) is the Class Representative. The companies sued are called the Defendants (Airgas and Airgas Carbonic). The court resolves the issues for everyone in the Class—except for those people who choose to exclude themselves from the Class.

4. Why is there a settlement?

Both Plaintiff and Airgas (collectively, the “Parties”) believe that the Settlement is fair, reasonable, and in the best interest of the Class Members. The Court has not decided in favor of Plaintiff or Airgas with regard to the claims alleged by Plaintiff in the lawsuit. Instead of the significant expense of time and resources that it would take to continue litigating the claims, including the burden associated with attempting to bring these claims to trial and disputes over class certification, both sides agreed to a settlement. By agreeing to the settlement, they avoid the costs, distractions, and risks inherent in any litigation, and Class Members, such as you, can get compensation.

The Parties conducted extensive investigation and discovery into the facts and issues in the lawsuit and, through their attorneys, participated in lengthy negotiations and analysis, including an all-day mediation with a prominent mediator of wage and hour class actions. The Settlement represents what the Parties believe to be a fair compromise of the disputed claims in this lawsuit.

5. Why is this lawsuit a class action?

As part of the Settlement, the Parties agreed to conditionally certify the Class with respect to all of the claims Plaintiff alleged against Airgas as a class action, for settlement purposes only, and to move towards Court approval of the Settlement. The Court has not ruled on the merits of these claims, and the decision to certify the agreed upon Class for settlement purposes should not be viewed as a prediction that Plaintiff or the Class would ultimately prevail on the merits of the action.

Before any payments are issued pursuant to this Settlement, the Court must approve the Settlement and issue a Judgment. The Court will make a final determination on the Settlement (*i.e.*, decide whether to approve it) at the Final Approval/Settlement Fairness Hearing, discussed in Section 18 below.

6. What are the terms of the Settlement?

In exchange for a release of all claims that were alleged in the lawsuit by all Class Members, Airgas agreed to pay a gross total of \$564,338.24 to fully settle this lawsuit. This amount is called the “Gross Settlement Amount.”

Out of the Gross Settlement Amount, Plaintiff will ask the Court to approve a class representative Incentive Payment of up to \$7,500.00 for his efforts in prosecuting the lawsuit. Class Counsel will ask for an award of 33.3% of the Gross Settlement Amount (*i.e.*, \$188,112.75) for their attorneys’ fees and reimbursement of costs and expenses incurred in this case (estimated up to \$27,000). Plaintiff will also ask the Court to award up to \$15,000 from the Gross Settlement Amount to the Claims Administrator, to pay for the cost of administering this Settlement (*i.e.*, mailing this Notice, printing checks, etc.). The Gross Settlement Amount will also include a \$37,500 payment to the California Labor and Workforce Development Agency for penalties allocated to Plaintiff’s claims pursuant to the California Labor Code Private Attorneys General Act and payments to some employees pursuant to the California Labor Code Private Attorneys General Act.

The money remaining after the above deductions from the Gross Settlement Amount is called the “Net Settlement Amount.” The Net Settlement Amount will be used to issue Individual Settlement Payments to Class Members who do not opt-out of the Settlement (based on the formula below), and to cover the employee-side share of related payroll taxes.

Individual Settlement Payments to Class Members will be calculated as follows:

1. Airgas will calculate the total number of “Qualifying Workweeks” worked by each Class Member during the relevant time period—called the “Class Period.” The number of Qualifying Workweeks for each Class Member will be based on the number of days that each Class Member worked according to Airgas’ records, divided by seven and rounded up to the nearest whole number. Each Class Member will be credited with at least one Qualifying Workweek. Airgas will also determine the aggregate total number of Qualifying Workweeks for the entire Class.
2. To determine each Class Member’s estimated Individual Settlement Payment, the Settlement Administrator will divide the Net Settlement Amount by the aggregate total number of Qualifying Workweeks for the entire Class, which will result in the “Workweek Value.” Each Class Member’s Individual Settlement Payment will be calculated by multiplying each Class Member’s total number of Qualifying Workweeks by the Workweek Value.
3. The Individual Settlement Payments will be reduced by any authorized or required deductions, including employee-side tax withholdings/deductions.

The entire Net Settlement Amount will be disbursed to Class Members who do not timely request to be excluded. Your estimated Individual Settlement Payment is listed in Section 9 of this Notice.

Each Individual Settlement Payment will represent wages and penalties allocated using the following formula: 30% allocated to wages; 70% allocated to liquidated damages, penalties, and interest. Unless you do not participate in the Settlement, you will receive IRS Forms W-2 and 1099 for these payments from the Settlement Administrator.

WHO IS IN THE CLASS?

7. Am I part of this Class?

The Class includes: All individuals who were employed by Airgas and/or Airgas Carbonic in California as non-exempt/hourly employees in their Dry Ice Division at any time(s) between May 8, 2016 through September 15, 2022 (the “Class Period”).

If you worked for Airgas and/or Airgas Carbonic as a non-exempt/hourly employee in their Dry Ice Division at any time during the Class Period, you are a part of the Class – *i.e.*, you are a Class Member.

8. I’m still not sure if I am included.

If you still are not sure whether you are included in the Class, you can get free help by contacting CPT Group, Inc., the Settlement Administrator, at the designated phone number for this matter at 1-888-388-0369, or by calling or writing the lawyers representing the Class in this case, at the phone number or address listed in Section 20 below.

YOUR RIGHTS AND OPTIONS

You have to decide whether to stay in the Class or ask to be excluded from the Settlement, as well as whether you want to object to the Settlement. You have to decide these issues by no later than December 13, 2022 because additional steps may be required, depending on what you decide.

9. What is my approximate settlement payment?

According to payroll records maintained by Airgas, the total number of days you worked for Airgas and/or Airgas Carbonic during the Class Period is <<Days>>; this means that you would be credited with <<Workweeks>> Qualifying Workweeks, based on the formula described in Section 6 above.

Based on information provided above and anticipated court-approved deductions, it is estimated your personal share of the Net Settlement Amount proceeds will be <<\$EstAmnt>>, less applicable taxes and withholdings.

You do not need to do anything further to receive your Individual Settlement Payment, other than to ensure that the Settlement Administrator has an accurate mailing address for you.

Individual Settlement Payment checks returned as undeliverable and all Individual Settlement Payment Checks uncashed 180 days after issuance will be void. The funds from any voided checks will be distributed as to the State of California, Department of the Controller, Unclaimed Property Fund, in the name(s) of the corresponding Class Member(s).

Disputing Your Payment Amount

If you believe your total days worked during the Class Period shown above is not correct, you may send a letter to the Settlement Administrator indicating what you believe is correct. You should also send any documents or other information that support your belief that the information set forth above is incorrect. The Settlement Administrator will resolve any dispute based upon Airgas' records and any information you provide. Any dispute must be mailed to the Settlement Administrator no later than **December 13, 2022**.

10. What rights am I releasing if I participate in the Settlement?

If you do not exclude yourself from the Settlement pursuant to the procedures outlined herein (by the deadline), you will release all claims, rights, demands, liabilities, and causes of action which accrued during the period from May 8, 2016 to September 1516, 2022 which accrued during the Class Period and which were or could have been alleged based on the facts alleged in the First Amended Complaint, including but not limited to: (i) claims for unpaid minimum (Cal. Lab. Code §§ 1194, 1197, 1197.1) and/or overtime wages (Cal. Lab. Code §§ 218, 510, 1198); (ii) claims for short, missed, untimely or otherwise non-compliant meal periods (Cal. Lab. Code §§ 226.7, 512(a)); (iii) claims for short, missed, untimely or otherwise non-compliant rest periods (Cal. Lab. Code § 226.7); (iv) claims for failure to timely pay wages upon termination of employment (Cal. Lab. Code §§ 201-203); (v) claims for failure to furnish accurate itemized wage statements (Cal. Lab. Code § 226(a)); and (vi) claims for violations of California Business & Professions Code, Section 17200, *et seq.* ("Released Wage & Hour Claims"). Each Class Member who endorses and deposits his or her settlement check is also releasing all claims under the Fair Labor Standards Act that are alleged, related to, or that reasonably could have arisen under the facts alleged in the First Amended Complaint filed by Plaintiff.

In addition, you will waive all claims for penalties pursuant to the PAGA (Cal. Lab. Code §§ 2698 *et seq.*) (the "PAGA Claims"). You cannot opt out of this release of the PAGA Claims, even if you opt out of the Class Action Settlement of the Released Wage and Hour Claims.

The releases waive and releases all claims against Airgas and all of its parent, subsidiary, affiliated and related companies and entities (including, without limitation, Airgas Carbonic), including all of its/their officers, directors, employees, partners, shareholders, investors, and agents, and any entities or partnerships with which

they are affiliated (collectively, the “Released Parties”). The Released Claims will not be effective until the Settlement is fully funded.

At the time the Settlement is fully funded, you will release the Released Claims, both the Released Wage & Hour Claims and the PAGA Claims, through the end of the Class Period. The release is not effective until the settlement is fully funded. Your release is included in the Settlement Agreement negotiated by Plaintiff and Airgas, and you will re-affirm the release when you cash or deposit (or otherwise negotiate) your settlement check.

11. How do I object to the settlement?

If you are a member of the Class and would like to object to the Settlement, you must not submit a request for exclusion (*i.e.*, must not opt-out). Also, no later than **December 13, 2022** you must fax or mail a written Notice of Objection to the Settlement Administrator (at the address in Section 17 below).

The Notice of Objection must include: (i) your full name, date of birth, signature, address, telephone number and the approximate dates of your employment at Airgas and/or Airgas Carbonic in California; (ii) a written statement of all grounds for the objection accompanied by any legal support for such objection; (iii) copies of any papers, briefs, or other documents upon which your objection is based; and (iv) a statement describing whether you intend to appear at the Final Approval/Settlement Fairness Hearing. You may also choose to attend the Final Approval/Settlement Fairness Hearing to notify the Court of your objection.

12. Why would I ask to be excluded?

You have the right to exclude yourself from the Class. If you exclude yourself from the Class—sometimes called “opting-out” of the Class—you won't get any money or benefits from the Settlement. However, you may then be able to sue or continue to sue Airgas and/or Airgas Carbonic for your own claims, if permitted by law. If you exclude yourself, you will not be legally bound by the Court's disposition of this lawsuit.

Airgas may withdraw from this Settlement if more than 20% of the Class Members opt-out (*i.e.*, request to be excluded). If you exclude yourself, you should talk to your own lawyer soon, because any claims you have may be subject to a statute of limitations.

You cannot exclude yourself from the PAGA portion of the Settlement. Your PAGA Claims will be released regardless of your participation in the Wage & Hour Class.

13. How do I ask to be excluded from the Class?

If you are a Class Member and would like to exclude yourself from the Settlement, you need to submit a written statement requesting exclusion from the Class called a “Request for Exclusion.” To be valid, the Request for Exclusion must: (i) set forth your full name, address, telephone number, and last four digits of your Social Security number; (ii) be signed by you; (iii) be returned to the Settlement Administrator by fax or by U.S. Mail to the address in Section 17 below; (iv) state **“I wish to opt-out from this Settlement”**; and (v) be faxed or postmarked on or before **December 13, 2022**. The date of the fax transmission receipt or postmark on the mailing envelope shall be the exclusive means used to determine whether a mailed Request for Exclusion has been timely submitted.

Any Class Member who opts out of the Class will not be entitled to any recovery under the Settlement and will not be bound by the Settlement or have any right to object, appeal, or comment thereon. Class Members who fail to submit a valid and timely Request for Exclusion on or before **December 13, 2022** will be bound by all

terms of the Settlement and any final disposition entered in this Class Action if the Settlement is approved by the Court.

You cannot request exclusion from the PAGA portion of the Settlement.

THE LAWYERS REPRESENTING YOU

14. Do I have a lawyer in this case?

The Court decided that the law firm James Hawkins APLC is qualified to represent you and all Class Members. The law firm is called “Class Counsel” in the context of this case. The law firm’s attorneys are experienced in handling similar cases against other employers. Class Counsel’s contact information is contained in Section 20 below.

Class Counsel has investigated and researched the facts and circumstances in this case and the applicable law, and believes the Settlement is fair, adequate, reasonable, and in the best interests of the Class Members.

15. How will the lawyers be paid?

As part of the Settlement with Airgas, Class Counsel has requested 33.3% of the Gross Settlement Amount (or \$188,112.75) in attorneys’ fees, to be paid from the Gross Settlement Amount to compensate Class Counsel for their work on this matter. Class Counsel will also request reimbursement for the costs and expenses incurred with bringing and litigating this action. It is estimated that such costs may be up to \$27,000. You will not have to separately pay Class Counsel’s fees and costs; they will be paid exclusively from the Gross Settlement Amount.

16. How will the Plaintiff be paid?

As part of the Settlement with Airgas, Class Counsel has requested an enhancement payment of up to \$7,500.00 to be paid to Plaintiff (Mr. Yniguez) for his efforts in this matter during investigation, discovery, mediation and the like, while serving as Class Representative and taking on the burden and risks of litigation.

THE SETTLEMENT, APPROVAL, AND PAYMENT PROCESS

17. Who is handling the Settlement Administration process?

Yniguez v. Airgas USA, LLC Settlement Administrator
c/o CPT Group, Inc.
50 Corporate Park
Irvine, CA 92606
Telephone: 1-888-388-0369
Fax: (949) 419-3446

18. When is the Final Approval/Settlement Fairness Hearing and do I have to attend?

The Final Approval/Settlement Fairness Hearing has been set for January 23, 2023, in Department 6 of the Superior Court of the State of California, County of Los Angeles, located at 312 North Spring Street, Los Angeles, California 90012. You are not required to attend the hearing to be a part of the Settlement, but you are welcome to do so. If you wish to object to the Settlement, you may appear at the hearing to object.

Please note that the hearing may be continued without further written notice to the Class. For further information about the hearing, you may consult the Court's online Case Summary, by visiting <http://www.lacourt.org/casesummary/ui/index.aspx?casetype=civil>.

19. When will I get money after the hearing?

Your Individual Settlement Payment from the Net Settlement Amount will be paid within approximately 100 days after the Court grants Final Approval of the Settlement, or, if there is any objection to the Settlement that is not withdrawn or if an appeal is filed, then after all rights to appeal are exhausted (assuming Court approval stands).

GETTING MORE INFORMATION

20. Are more details available?

This Notice is only a summary of the case and the Settlement. For more detailed information, you may refer to the pleadings, the operative settlement agreement (titled "Joint Stipulation of Class and Representative Action Settlement"), and the other papers filed in the case. You may access these documents by visiting the office of the Clerk of the Court for the Superior Court of California, County of Los Angeles, Spring Street Courthouse, located at 312 North Spring Street, Room 255, Los Angeles, California 90012. The Clerk's Office is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, except court holidays.

In addition, you may contact the Settlement Administrator:

Yniguez v. Airgas USA, LLC Settlement Administrator
c/o CPT Group, Inc.
50 Corporate Park
Irvine, CA 92606
Telephone: 1-888-388-0369
Fax: (949) 419-3446

You may also contact Class Counsel with any questions or to request to see documents:

James R. Hawkins, Esq.
Christina M. Lucio, Esq.
James Hawkins, APLC
9880 Research Dr.
Suite 200
Irvine, CA 92618
Telephone: (949) 387-7200
Facsimile: (949) 387-6676
E-mail: james@jameshawkinsaplc.com
E-mail: christina@jameshawkinsaplc.com
<https://www.jameshawkinsaplc.com/>

PLEASE DO NOT CALL OR WRITE TO THE JUDGE OR TO THE COURT, OR TO ANY OF AIRGAS' MANAGERS, SUPERVISORS, OR AIRGAS' ATTORNEYS WITH QUESTIONS.

ESTE ES UN AVISO IMPORTANTE APROBADO POR LA CORTE. LEA CUIDADOSAMENTE.

Yniguez v. Airgas USA, LLC, et al.
Corte Superior de Los Ángeles – Caso No. 20STCV18190

SI USTED ESTUVO EMPLEADO COMO UN TRABAJADOR NO EXENTO/PAGADO POR HORA EN LA DIVISIÓN DE HIELO SECO DE AIRGAS USA, LLC Y/O AIRGAS CARBONIC, INC., UNA DEMANDA COLECTIVA PUEDE AFECTAR SUS DERECHOS.

Este es un aviso autorizado por la corte. No es una solicitud de un abogado.

- Usted ha sido identificado como un Miembro de la Clase en una demanda presentada por un empleado anterior de Airgas USA, LLC (“Airgas”) y Airgas Carbonic, Inc. (“Airgas Carbonic”).
- La demanda alega que Airgas y Airgas Carbonic no pagaron adecuadamente a los empleados no exentos de su División de Hielo Seco por todas las horas trabajadas (incluyendo las horas extras), no proporcionaron los periodos de comida y de descanso adecuados, no pagaron oportunamente los salarios adeudados en el momento de la separación, y no emitieron las declaraciones salariales detalladas. La demanda también solicita las sanciones conforme a la Ley General de Abogados Privados, sección 2698 y siguientes del Código Laboral. Airgas sostiene que tanto él como Airgas Carbonic cumplieron con la ley de California y que, al resolver la demanda, no admiten ninguna de las alegaciones.
- La Corte ha aprobado preliminarmente un acuerdo de la demanda colectiva con Airgas (el “Acuerdo”), que afectará a todas las personas que fueron empleadas por Airgas y/o Airgas Carbonic como empleados no exentos/pagados por hora en su División de Hielo Seco en cualquier momento entre el 8 de mayo del 2016 y el 16 de septiembre del 2022.
- Si la Corte concede la aprobación final del Acuerdo, habrá dinero disponible para usted.

SUS DERECHOS Y OPCIONES LEGALES EN ESTA DEMANDA	
PARTICIPAR EN EL ACUERDO - <u>NO SE REQUIERE NINGUNA ACCIÓN</u>	Usted no necesita hacer nada para participar en el Acuerdo. Al no hacer nada, usted se convierte en parte de la Clase y cobrará una adjudicación del acuerdo como se detalla a continuación. Pero, usted renuncia a ciertos derechos para demandar a Airgas por separado.
EXCLUIRSE DEL ACUERDO	Si solicita ser excluido del Acuerdo, no recibirá ninguna adjudicación del acuerdo. Pero, usted conservará cualquier derecho a demandar a Airgas por separado.
OBJETAR AL ACUERDO	Si desea objetar al Acuerdo, hay instrucciones a continuación. Si usted objeta al Acuerdo, seguirá siendo un miembro de la Clase, y si la Corte aprueba el Acuerdo, usted estará obligado por los términos del Acuerdo de la misma manera que los Miembros de la Clase que no objetan.

- Sin importar la opción que elija, no se tomarán represalias en contra de usted por ejercer sus derechos.
- Sus opciones se explican en este Aviso. Para objetar al Acuerdo o pedir ser excluido, usted debe actuar antes del 13 de diciembre del 2022.
- ¿Tiene alguna pregunta? Siga leyendo o comuníquese con los Abogados de la Clase o con el Administrador del Acuerdo que se indica a continuación.

INFORMACIÓN BÁSICA

1. ¿Por qué recibí este aviso?

Los registros de nómina de Airgas muestran que usted trabaja actualmente o ha trabajado anteriormente para Airgas y/o Airgas Carbonic como un empleado no exento/pagado por hora en su División de Hielo Seco. Este Aviso explica que la Corte ha concedido la aprobación preliminar de un acuerdo en una demanda colectiva certificado condicionalmente que puede afectarlo. Usted ha recibido este Aviso porque tiene derecho a saber sobre el Acuerdo propuesto de esta demanda y sus derechos y opciones antes de que la Corte decida si concede la aprobación final del Acuerdo. Usted tiene derecho a participar en el Acuerdo y a recibir un pago en efectivo de los fondos del acuerdo disponibles. Usted también tiene derecho a excluirse de este Acuerdo y solicitar preservar sus propios derechos para presentar una demanda por separado en su propio nombre. Por último, usted tiene derecho a objetar los términos de este Acuerdo o cualquier parte del mismo.

El Juez Elihu M. Berle de la Corte Superior del Estado de California, Condado de Los Ángeles, está supervisando esta demanda colectiva. La demanda se conoce como *Yniguez v. Airgas USA, LLC, et al.*, Caso No. 20STCV18190.

2. ¿De qué trata esta demanda?

Esta demanda fue presentada por un empleado anterior de Airgas y Airgas Carbonic llamado Charles Yniguez (“Demandante”). Esta demanda se refiere a si Airgas y/o Airgas Carbonic compensaron adecuadamente a los empleados no exentos en sus Divisiones de Hielo Seco por todas las horas trabajadas (incluyendo las horas extras), proporcionaron los períodos de comida y los períodos de descanso adecuados, pagaron oportunamente todos los salarios adeudados a la terminación del empleo, y/o proporcionaron declaraciones salariales adecuadas. Además, el Demandante alegó reclamos por intereses, sanciones, costos y/u honorarios de abogados que son derivados de los reclamos descritos anteriormente. El Demandante presentó su demanda en nombre de sí mismo y también solicitó presentarla en nombre de una Clase que consiste de todos los empleados no exentos/pagados por hora empleados por Airgas y/o Airgas Carbonic en su División de Hielo Seco en cualquier momento entre el 8 de mayo del 2016 y el 16 de septiembre del 2022. Sobre la base de los registros de Airgas, usted se encuentra entre los individuos que se incluyen en la Clase que el Demandante solicitó representar.

Durante el litigio, Airgas ha negado – y sigue negando – las alegaciones de hecho y legales en el caso y ha mantenido que tiene defensas válidas en contra de los reclamos. Airgas niega cualquier mala conducta y afirma que sus prácticas y las de Airgas Carbonic cumplieron en todo momento a la ley. Sin embargo, Airgas ha aceptado voluntariamente los términos de un acuerdo negociado, sin admitir culpabilidad alguna, con el fin de evitar la carga y los gastos de un litigio continuo.

3. ¿Qué es una demanda colectiva?

En una demanda colectiva como ésta, las personas que se llaman “Representantes de la Clase” demandan en nombre de otras personas que pueden tener reclamos similares como parte de una sola demanda. Las personas juntas son una “Clase” o “Miembros de la Clase.” En esta demanda, el Demandante (Sr. Yniguez) es el Representante de la Clase.

Las compañías demandadas se llaman los Demandados (Airgas y Airgas Carbonic). La corte resuelve los asuntos para todos los miembros de la Clase, excepto para aquellas personas que decidan excluirse de la Clase.

4. ¿Por qué hay un acuerdo?

Ambos el Demandante y Airgas (colectivamente, las “Partes”) creen que el Acuerdo es justo, razonable y en el mejor interés de los Miembros de la Clase. La Corte no ha decidido a favor del Demandante o de Airgas con respecto a los reclamos alegados por el Demandante en la demanda. En lugar de los considerables gastos de tiempo y recursos que supondría seguir litigando los reclamos, incluyendo la carga asociada con el intento de presentar estos reclamos a juicio y las disputas sobre la certificación de la clase, ambas partes acordaron un acuerdo. Al aceptar el acuerdo, ellos evitan los costos, las distracciones y los riesgos inherentes en cualquier litigio, y los Miembros de la Clase, tal como usted, pueden obtener una compensación.

Las Partes llevaron a cabo una extensa investigación y descubrimiento de los hechos y cuestiones en la demanda y, a través de sus abogados, participaron en largas negociaciones y análisis, incluyendo una mediación de todo un día con un mediador reconocido de demandas colectivas de salarios y horas. El Acuerdo representa lo que las Partes consideran un compromiso justo de los reclamos en disputa en esta demanda. The Parties conducted extensive investigation and discovery into the facts and issues in the lawsuit and, through their attorneys, participated in lengthy negotiations and analysis, including an all-day mediation with a prominent mediator of wage and hour class actions.

5. ¿Por qué esta demanda es una demanda colectiva?

Como parte del Acuerdo, las Partes acordaron certificar condicionalmente a la Clase con respecto a todos los reclamos que el Demandante alegó en contra de Airgas como una demanda colectiva, sólo para los propósitos del acuerdo, y para avanzar hacia la aprobación del Acuerdo por parte de la Corte. La Corte no ha decidido sobre los méritos de estos reclamos, y la decisión de certificar la Clase acordada para los propósitos del acuerdo no debe ser vista como una predicción de que el Demandante o la Clase finalmente prevalecerán sobre los méritos de la demanda.

Antes de que se realice cualquier pago de conformidad con este Acuerdo, la Corte debe aprobar el Acuerdo y emitir una Sentencia. La Corte tomará una decisión final sobre el Acuerdo (*es decir*, decidirá si lo aprueba) en la Audiencia de Aprobación Final/Equidad del Acuerdo, que se discute en la Sección 18 a continuación.

6. ¿Cuáles son los términos del Acuerdo?

A cambio de una liberación de todos los reclamos que fueron alegados en la demanda por todos los Miembros de la Clase, Airgas acordó pagar un total bruto de \$564,338.24 para completamente resolver esta demanda. Esta cantidad se denomina la “Cantidad Bruta del Acuerdo.”

De la Cantidad Bruta del Acuerdo, el Demandante le pedirá a la Corte que apruebe un Pago de Incentivo para el representante de la clase de hasta \$7,500.00 por sus esfuerzos en la prosecución de la demanda. Los Abogados de la Clase le pedirán una adjudicación del 33.3% de la Cantidad Bruta del Acuerdo (*es decir*, \$188,112.75) para sus honorarios de sus abogados y el reembolso de los costos y gastos incurridos en este caso (estimados de hasta \$27,000). El Demandante también solicitará a la Corte que conceda hasta \$15,000 de la Cantidad Bruta del Acuerdo al Administrador de Reclamos, para pagar los costos de administración de este Acuerdo (*es decir*, el envío por correo de este Aviso, la impresión de cheques, etc.). La Cantidad Bruta del Acuerdo también incluirá un pago de \$37,500 a la Agencia de Trabajo y Desarrollo de la Fuerza Laboral de California por las sanciones asignadas a los reclamos del Demandante de conformidad con la Ley General de Abogados Privados del Código Laboral de California y los pagos a algunos empleados de conformidad con la Ley General de Abogados Privados del Código Laboral de California.

El dinero que resta después de las deducciones mencionadas de la Cantidad Bruta del Acuerdo se denomina “Cantidad Neta del Acuerdo.” La Cantidad Neta del Acuerdo se utilizará para emitir los Pagos Individuales del Acuerdo a los

Miembros de la Clase que no opten por excluirse del Acuerdo (según la fórmula que se indica a continuación), y para cubrir la parte correspondiente a los empleados de los impuestos sobre la nómina relacionados.

Los Pagos Individuales del Acuerdo a los Miembros de la Clase se calcularán de la siguiente manera:

1. Airgas calculará el número total de “Semanas de Trabajo Calificadas” trabajadas por cada Miembro de la Clase durante el período de tiempo relevante-llamado el “Período de la Clase.” El número de Semanas de Trabajo Calificadas para cada Miembro de la Clase se basará en el número de días que cada Miembro de la Clase trabajó según los registros de Airgas, dividido por siete y redondeado al número entero más cercano. A cada Miembro de la Clase se le acreditará al menos una Semana de Trabajo Calificada. Airgas también determinará el número total agregado de Semanas de Trabajo Calificadas para toda la Clase.
2. Para determinar el Pago Individual del Acuerdo estimado de cada Miembro de la Clase, el Administrador del Acuerdo dividirá la Cantidad Neta del Acuerdo por el número total agregado de Semanas de Trabajo Calificadas para toda la Clase, lo que dará como resultado el “Valor de la Semana de Trabajo.” El Pago Individual del Acuerdo de cada Miembro de la Clase se calculará multiplicando el número total de Semanas de Trabajo Calificadas de cada Miembro de la Clase por el Valor de la Semana de Trabajo.
3. Los Pagos Individuales del Acuerdo se reducirán con cualquier deducción autorizada o requerida, incluyendo las retenciones/deducciones fiscales del empleado.

La Cantidad Neta del Acuerdo será distribuida en su totalidad a los Miembros de la Clase que no soliciten oportunamente ser excluidos. Su Pago Individual del Acuerdo estimado se indica en la Sección 9 de este Aviso.

Cada Pago Individual del Acuerdo representará los salarios y las sanciones asignados utilizando la siguiente fórmula: 30% asignado a los salarios; 70% asignado a los daños liquidados, sanciones e intereses. A menos de que usted no participe en el Acuerdo, recibirá del Administrador del Acuerdo las Formas W-2 y 1099 del IRS para estos pagos.

¿QUIÉN ESTÁ EN LA CLASE?

7. ¿Soy parte de esta Clase?

La Clase incluye: Todas las personas que fueron empleadas por Airgas y/o Airgas Carbonic en California como empleados no exentos/pagados por hora en su División de Hielo Seco en cualquier momento(s) entre el 8 de mayo del 2016 hasta el 16 de septiembre del 2022 (el “Período de la Clase”).

Si usted trabajó para Airgas y/o Airgas Carbonic como un empleado no exento/pagado por hora en su División de Hielo Seco en cualquier momento durante el Período de la Clase, usted es parte de la Clase - *es decir*, usted es un Miembro de la Clase.

8. Todavía no estoy seguro si estoy incluido.

Si usted aún no está seguro si está incluido en la Clase, usted puede obtener ayuda gratuita comunicándose con **CPT Group, Inc.**, el Administrador del Acuerdo, al número de teléfono designado para este asunto en **1-888-388-0369**, o llamando o escribiendo a los abogados que representan a la Clase en este caso, al número de teléfono o a la dirección que se indica en la Sección 20 a continuación.

SUS DERECHOS Y OPCIONES

Usted tiene que decidir si permanece en la Clase o pide ser excluido del Acuerdo, así como si desea objetar al Acuerdo. Usted tiene que decidir estas cuestiones a no más tardar el 13 de diciembre del 2022, porque es posible que se requieran pasos adicionales, dependiendo de lo que usted decida.

9. ¿Cuál es mi pago aproximado del acuerdo?

Según los registros de nómina mantenidos por Airgas, el número total de días que usted trabajó para Airgas y/o Airgas Carbonic durante el Periodo de la Clase es de <<Days>>; esto significa que se le acreditarían <<Workweeks>> Semanas de Trabajo Calificadas, según la fórmula descrita en la Sección 6 anteriormente.

Según la información proporcionada anteriormente y las deducciones previstas aprobadas por la corte, se estima que su parte personal de los fondos de la Cantidad Neta del Acuerdo será <<\$EstAmnt>>, menos los impuestos y retenciones aplicables.

Usted no necesita hacer nada más para recibir su Pago Individual del Acuerdo, aparte de asegurarse de que el Administrador del Acuerdo tenga una dirección postal exacta para usted.

Los cheques del Pago Individual del Acuerdo devueltos como no entregables y todos los Cheques del Pago Individual del Acuerdo no cobrados 180 días después de su emisión serán anulados. Los fondos de los cheques anulados se distribuirán en el Estado de California, Departamento del Contralor, Fondo de Propiedad No Reclamada, a nombre de los Miembros de la Clase correspondientes.

Disputar Su Cantidad del Pago

Si usted cree que el total de días trabajados durante el Período de la Clase que se muestra anteriormente no es correcto, usted puede enviar una carta al Administrador del Acuerdo que indique lo que usted cree que es correcto. Usted también debe enviar cualquier documento u otra información que apoye su creencia de que la información establecida anteriormente no es correcta. El Administrador del Acuerdo resolverá cualquier disputa según los registros de Airgas y cualquier información que usted proporcione. Cualquier disputa debe ser enviada por correo al Administrador del Acuerdo a no más tardar el 13 de diciembre del 2022.

10. ¿A qué derechos renuncio si participo en el Acuerdo?

Si no se excluye del Acuerdo de conformidad con los procedimientos descritos en el presente documento (antes de la fecha límite), usted liberará todos los reclamos, derechos, demandas, responsabilidades y causas de acción que se acumularon durante el período desde el 8 de mayo del 2016 hasta el 16 de septiembre del 2022 que se acumularon durante el Período de la Clase y que fueron o podrían haber sido alegados sobre la base de los hechos alegados en la Primera Demanda Enmendada, incluyendo, pero no limitado a: (i) los reclamos por los salarios mínimos no pagados (§§ 1194, 1197, 1197.1 del Código Laboral de California) y/o los salarios de las horas extras (§§ 218, 510, 1198 del Código Laboral de California); (ii) reclamos por los períodos de comida cortos, perdidos, inoportunos o de otra manera no conformes (§ 226.7, 512(a) del Código Laboral de California); (iii) reclamos por los períodos de descanso cortos, perdidos, inoportunos o de otra manera no conformes (§ 226.7 del Código Laboral de California); (iv) reclamos por no pagar oportunamente los salarios a la terminación del empleo (§§ 201-203 del Código Laboral de California); (v) reclamos por no proporcionar las declaraciones salariales detalladas y precisas (§ 226(a) del Código Laboral de California); y (vi) reclamos por las violaciones de la Sección 17200 y siguientes del Código de Negocios y Profesiones de California (“Reclamos Liberados de Salarios y Horas”). Cada Miembro de la Clase que cobre y deposite su cheque del acuerdo también está liberando todos los reclamos según la Ley de Normas Laborales Justas que se alegan, están relacionadas con, o que razonablemente podrían haber surgido bajo los hechos alegados en la Primera Demanda Enmendada presentada por el Demandante.

Además, usted renunciará todos los reclamos por las sanciones de conformidad con la PAGA (§§ 2698 y siguientes del Código Laboral de California) (los “Reclamos de PAGA”). Usted no puede optar por no participar en esta liberación de los Reclamos de PAGA, aun si opta por no participar en el Acuerdo de Demanda Colectiva de los Reclamos Liberados de Salarios y Horas.

Las liberaciones renuncian y liberan todos los reclamos en contra de Airgas y todas sus compañías y entidades matrices, subsidiarias, afiliadas y relacionadas (incluyendo, sin limitación, a Airgas Carbonic), incluyendo a todos sus funcionarios, directores, empleados, socios, accionistas, inversionistas y agentes, y cualquier entidad o sociedad con la que estén afiliados (colectivamente, las “Partes Liberadas”). Los Reclamos Liberados no serán efectivos hasta que el Acuerdo sea financiado en su totalidad.

En el momento en que se financie completamente el Acuerdo, usted liberará los Reclamos Liberados, tanto los Reclamos Liberados de Salarios y Horarios como los Reclamos de PAGA, hasta el final del Período de la Clase. La liberación no es efectiva hasta que el acuerdo esté completamente financiado. Su liberación está incluida en la Resolución del Acuerdo negociada por el Demandante y Airgas, y usted reafirmará la liberación cuando cobre o deposite (o negocie de otro modo) su cheque del acuerdo.

11. ¿Cómo puedo objetar al acuerdo?

Si usted es miembro de la Clase y desea objetar al Acuerdo, no debe presentar una solicitud de exclusión (es decir, no debe optar por no participar). Además, a no más tardar el **13 de diciembre del 2022**, usted debe enviar por fax o por correo un Aviso de Objeción por escrito al Administrador del Acuerdo (a la dirección que se indica en la Sección 17 a continuación).

El Aviso de Objeción debe incluir: (i) su nombre completo, fecha de nacimiento, firma, dirección, número de teléfono y las fechas aproximadas de su empleo en Airgas y/o Airgas Carbonic en California; (ii) una declaración por escrito de todos los motivos de la objeción, acompañada por cualquier apoyo legal para dicha objeción; (iii) copias de todos los papeles, escritos u otros documentos en los que se basa su objeción; y (iv) una declaración que describa si tiene intención de comparecer en la Audiencia de Aprobación Final/Equidad del Acuerdo. Usted también puede optar por asistir a la Audiencia de Aprobación Final/Equidad del Acuerdo para notificar a la Corte de su objeción.

12. ¿Por qué pediría ser excluido?

Usted tiene derecho a excluirse de la Clase. Si se excluye de la Clase, lo que a veces se denomina “optar por no participar” de la Clase, no obtendrá ningún dinero ni beneficio del Acuerdo. Sin embargo, es posible que pueda demandar o continuar demandando a Airgas y/o Airgas Carbonic por sus propios reclamos, si lo permite la ley. Si se excluye, no estará legalmente obligado por la disposición de la Corte en esta demanda.

Airgas puede retirarse de este Acuerdo si más del 20% de los Miembros de la Clase se excluyen (*es decir*, solicitan ser excluidos). Si se excluye, usted debe hablar con su propio abogado pronto, porque cualquier reclamo que tenga puede estar sujeto a un estatuto de limitaciones.

Usted no puede excluirse de la porción de PAGA del Acuerdo. Sus Reclamos de PAGA serán liberados sin importar su participación en la Clase de Salarios y Horas.

13. ¿Cómo puedo pedir ser excluido de la Clase?

Si usted es un Miembro de la Clase y desea excluirse del Acuerdo, necesita presentar una declaración escrita solicitando la exclusión de la Clase llamada una “Solicitud de Exclusión.” Para que sea válida, la Solicitud de Exclusión debe: (i) establecer su nombre completo, dirección, número de teléfono y los últimos cuatro dígitos de su número de Seguro Social; (ii) estar firmada por usted; (iii) ser devuelta al Administrador del Acuerdo por fax o por correo de EE.UU. a la dirección en la Sección 17 a continuación; (iv) declarar “**Deseo excluirme de este Acuerdo**”; y (v) ser enviada por fax o con el sello postal a no más tardar el **13 de diciembre del 2022**. La fecha de recepción de la transmisión por fax o el sello postal del sobre de envío serán los únicos medios utilizados para determinar si una Solicitud de Exclusión enviada por correo ha sido presentada a tiempo.

Cualquier Miembro de la Clase que opte por excluirse de la Clase no tendrá derecho a ninguna recuperación según el Acuerdo y no estará obligado por el Acuerdo ni tendrá ningún derecho a objetar, apelar o comentar al respecto. Los Miembros de la Clase que no presenten una Solicitud de Exclusión válida y oportuna en o antes del 13 de diciembre del 2022 estarán obligados por todos los términos del Acuerdo y por cualquier disposición final dictada en esta Demanda Colectiva si el Acuerdo es aprobado por la Corte.

Usted no puede solicitar la exclusión de la porción de PAGA del Acuerdo.

LOS ABOGADOS QUE LO REPRESENTAN

14. ¿Tengo un abogado en este caso?

La Corte decidió que el despacho de abogados James Hawkins APLC está calificado para representarlo a usted y a todos los Miembros de la Clase. El despacho de abogados se denomina “Abogado de la Clase” en el contexto de este caso. Los abogados del despacho tienen experiencia en el manejo de casos similares en contra de otros empleadores. La información de contacto de los Abogados de la Clase se encuentra en la Sección 20 a continuación.

Los Abogados de la Clase han investigado y estudiado los hechos y circunstancias de este caso y de la ley aplicable, y creen que el Acuerdo es justo, adecuado, razonable y en el mejor interés de los Miembros de la Clase.

15. ¿Cómo serán pagados los abogados?

Como parte del Acuerdo con Airgas, los Abogados de la Clase han solicitado el 33.3% de la Cantidad Bruta del Acuerdo (o \$188,112.75) en honorarios de abogados, que se pagarán de la Cantidad Bruta del Acuerdo para compensar a los Abogados de la Clase por su trabajo en este asunto. Los Abogados de la Clase también solicitarán el reembolso de los costos y gastos incurridos en la presentación y el litigio de esta demanda. Se estima que dichos costos pueden ser de hasta \$27,000. Usted no tendrá que pagar por separado los honorarios y costos de los Abogados de la Clase; se pagarán exclusivamente con la Cantidad Bruta del Acuerdo.

16. ¿Cómo será pagado el Demandante?

Como parte del Acuerdo con Airgas, los Abogados de la Clase han solicitado un pago de mejora de hasta \$7,500.00 que se pagará al Demandante (Sr. Yniguez) por sus esfuerzos en este asunto durante la investigación, el descubrimiento, la mediación y similares, mientras servía como el Representante de la Clase y asumía la carga y los riesgos del litigio.

EL ACUERDO, LA APROBACIÓN Y EL PROCESO DE PAGO

17. ¿Quién maneja el proceso de Administración del Acuerdo?

Yniguez v. Airgas USA, LLC Settlement Administrator
c/o CPT Group, Inc.
50 Corporate Park
Irvine, CA 92606
Teléfono: 1-888-388-0369
Fax: (949) 419-3446

18. ¿Cuándo es la Audiencia de Aprobación Final/Equidad del Acuerdo y tengo que asistir?

La Audiencia de Aprobación Definitiva/Arreglo Equitativo ha sido programada el 23 de enero del 2023, en el Departamento 6 de la Corte Superior del Estado de California, Condado de Los Ángeles, ubicada en 312 North Spring

Street, Los Ángeles, California 90012. Usted no está obligado a asistir a la audiencia para ser parte del Acuerdo, pero es bienvenido a hacerlo. Si desea objetar al Acuerdo, puede presentarse en la audiencia para objetar.

Por favor, tenga en cuenta que la audiencia puede continuar sin necesidad de avisar por escrito a la Clase. Para obtener más información sobre la audiencia, usted puede consultar el Resumen del Caso en línea de la Corte, visitando <http://www.lacourt.org/casesummary/ui/index.aspx?casetype=civil>.

19. ¿Cuándo recibiré el dinero después de la audiencia?

Su Pago Individual del Acuerdo de la Cantidad Neta del Acuerdo se pagará dentro de aproximadamente 100 días después de que la Corte conceda la Aprobación Final del Acuerdo, o, si hay alguna objeción al Acuerdo que no sea retirada o si se presenta una apelación, entonces después de que se agoten todos los derechos de apelación (asumiendo que la aprobación de la Corte se mantiene).

OBTENER MÁS INFORMACIÓN

20. ¿Hay más detalles disponibles?

Este Aviso es sólo un resumen del caso y del Acuerdo. Para obtener información más detallada, usted puede consultar los alegatos, la resolución del acuerdo (titulada “Joint Stipulation of Class and Representative Action Settlement”) y los demás documentos presentados en el caso. Usted puede acceder estos documentos visitando la oficina del Secretario de la Corte para la Corte Superior de California, Condado de Los Ángeles, Spring Street Courthouse, ubicada en 312 North Spring Street, Sala 255, Los Ángeles, California 90012. La oficina del secretario está abierta de 8:30 a.m. a 4:30 p.m., de lunes a viernes, excepto los días festivos de la corte.

Además, usted puede comunicarse con el Administrador del Acuerdo:

Yniguez v. Airgas USA, LLC Settlement Administrator
c/o CPT Group, Inc.
50 Corporate Park
Irvine, CA 92606
Teléfono: 1-888-388-0369
Fax: (949) 419-3446

Usted también puede comunicarse con los Abogados de la Clase si tiene alguna pregunta o para solicitar ver los documentos:

James R. Hawkins, Lic.
Christina M. Lucio, Lic.
James Hawkins, APLC
9880 Research Dr.
Suite 200
Irvine, CA 92618
Teléfono: (949) 387-7200
Facsímil: (949) 387-6676
E-mail: james@jameshawkinsaplc.com
E-mail: christina@jameshawkinsaplc.com
<https://www.jameshawkinsaplc.com/>

POR FAVOR, NO LLAME NI ESCRIBA AL JUEZ O A LA CORTE, NI A NINGUNO DE LOS GERENTES, SUPERVISORES O ABOGADOS DE AIRGAS CON PREGUNTAS.