

SHIMODA & RODRIGUEZ LAW, PC
Galen T. Shimoda (Cal. State Bar No. 226752)
Justin P. Rodriguez (Cal. State Bar No. 278275)
Renald Konini (Cal. State Bar No. 312080)
9401 East Stockton Boulevard, Suite 120
Elk Grove, CA 95624
Telephone: (916) 525-0716
Facsimile: (916) 760-3733

**BLUMENTHAL NORDREHAUG BHOWMIK
DE BLOUW LLP**

Norman B. Blumenthal (State Bar #068687)
Kyle R. Nordrehaug (State Bar #205975)
2255 Calle Clara La Jolla, CA 92037
Telephone: (858)551-1223
Facsimile: (858) 551-1232
Website: www.bamlawca.com
Email: Kyle@bamlawca.com

Attorneys for Plaintiffs
[Additional parties continue on next page]

**SUPERIOR COURT FOR THE STATE OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO**

CARLETON EDWARDS, MICHAEL
ADAMS, and PETER HALL,
individually and on behalf of all other
similarly situated employees,

Plaintiffs,

vs.

SUBURBAN PROPANE, L.P., a
Delaware Limited Partnership; and
DOES 1 to 100, inclusive,

Defendants.

Defen

dants.

Case No. **34-2022-00314949-CU-OE-GDS**

**{PROPOSED} FINAL APPROVAL ORDER AND
JUDGMENT**

Date: January 12, 2024

Time: 9:00 a.m.

[hearing set by Order dated August 7, 2023]

Dept.: 27

Judge: Hon. Jill Talley

Filed: February 2, 2022

Trial Date: None Set

POTTER HANDY LLP

Mark D. Potter (SBN 166317)

mark@potterhandy.com

James M. Treglio (SBN 228077)

jimt@potterhandy.com

100 Pine St., Ste 1250

San Francisco, CA 94111

(858) 375-7385

Fax: (888) 422-5191

Attorneys for Plaintiffs

1 The motion of Named Plaintiffs Carleton Edwards, Michael Adams, and Peter Hall
2 (“Plaintiffs”) for an order finally approving the Joint Stipulation Regarding Class Action and
3 PAGA Settlement and Release (“Agreement” or “Settlement”) with Defendants Suburban
4 Propane, L.P. and Suburban Sales & Service, Inc. (“Defendants”), attorneys’ fees and costs,
5 Enhancement Payments, and the fees and expenses of the Settlement Administrator duly came on
6 for hearing on January 12, 2024 before the Honorable Jill H. Talley.

7
8 **I.**

9 **FINDINGS**

10 Based on the oral and written argument and evidence presented in connection with the
11 motion, the Court makes the following findings:

- 12 1. All terms used herein shall have the same meaning as defined in the Agreement.
- 13 2. This Court has jurisdiction over the subject matter of this litigation pending before
14 the California Superior Court for the County of Sacramento, and over all Parties to this litigation,
15 including the Class.
- 16 3. Based on a review of the papers submitted by Plaintiff and a review of the
17 applicable law, the Court finds that the Gross Settlement Amount of \$979,854.70 and the terms
18 set forth in the Agreement are fair, reasonable, and adequate.
- 19 4. The Court further finds that the Settlement was the result of arm’s length
20 negotiations conducted after Class Counsel had adequately investigated the claims and became
21 familiar with the strengths and weaknesses of those claims. In particular, the amount the
22 Settlement, the significant risks relating to certification, liability, and damages issues, and the
23 assistance of an experienced mediator in the settlement process, among other factors, support the
24 Court’s conclusion that the Settlement is fair, reasonable, and adequate.

25 **Preliminary Approval of the Settlement**

- 26 5. On August 7, 2023, the Court granted preliminary approval of the Settlement. At
27 this same time, the Court approved conditional certification of the Class for settlement purposes
28 only.

1 **Notice to the Class**

2 6. In compliance with the Preliminary Approval Order, the Class Notice was mailed
3 by first class mail to members of the Class at their last known addresses on or about September
4 26, 2023. Mailing of the Class Notice to their last known addresses was the best notice
5 practicable under the circumstances and was reasonably calculated to communicate actual notice
6 of the litigation and the proposed settlement to the Class. The Class Notice given to the Class
7 Members fully and accurately informed the Class Members of all material elements of the
8 proposed Settlement and of their opportunity to object to or comment thereon or to seek
9 exclusion from the Settlement; was valid, due, and sufficient notice to all Class Members; and
10 complied fully with the laws of the State of California, the United States Constitution, due
11 process and other applicable law. The Class Notice fairly and adequately described the
12 Settlement and provided Class Members adequate instructions and a variety of means to obtain
13 additional information.

14 7. The deadline for opting out of the Class or submitting written objections to the
15 Settlement was November 27, 2023. There was an adequate interval between notice and the
16 deadline to permit Class Members to choose what to do and act on their decision. A full
17 opportunity has been afforded to the Class Members to participate in this hearing, and all Class
18 Members and other persons wishing to be heard have been heard. Class Members also have had
19 a full and fair opportunity to exclude themselves from the proposed Settlement and Class.
20 Accordingly, the Court determines that all Class Members who did not timely and properly
21 submit a request for exclusion are bound by the Settlement and this Final Approval Order and
22 Judgment.

23 **Fairness Of Settlement**

24 8. The Agreement is entitled to a presumption of fairness. *Dunk v. Ford Motor Co.*
25 48 Cal.App.4th 1794, 1801 (1996).

26 a. The settlement was reached through arm's-length bargaining between the
27 parties during an all-day mediation before Louis Marlin, a respected and experienced mediator of
28

1 wage and hour class actions based on a mediator's proposal. There has been no collusion
2 between the parties in reaching the proposed settlement.

3 b. Plaintiffs' investigation and discovery have been sufficient to allow the
4 Court and counsel to act intelligently.

5 c. Counsel for both parties are experienced in similar employment class
6 action litigation. All counsel recommended approval of the Agreement.

7 d. The percentage of objectors and requests for exclusion is small. No
8 objections were received. Three (3) requests for exclusion were received.

9 e. The participation rate was high. 662 Class Members will be mailed a
10 settlement payment, representing 99.55% of the overall Class.

11 9. The consideration to be given to the Class Members under the terms of the
12 Agreement is fair, reasonable and adequate considering the strengths and weaknesses of the
13 claims asserted in this action and is fair, reasonable and adequate compensation for the release of
14 Class Members' claims, given the uncertainties and significant risks of the litigation and the
15 delays which would ensue from continued prosecution of the action.

16 10. The Agreement is approved as fair, adequate and reasonable and in the best
17 interests of the Class Members.

18 **Attorneys' Fees and Costs**

19 11. An award of \$326,618.23 for attorneys' fees, representing one-third of the Gross
20 Settlement Amount, and \$20,772.63 for litigation costs and expenses, is reasonable, in light of
21 the contingent nature of Class Counsel's fee, the hours worked by Class Counsel, and the results
22 achieved by Class Counsel. The requested award has been supported by Class Counsel's
23 lodestar and billing statement.

24 **Enhancement Payments**

25 12. The Agreement provides for Enhancement Payments of not more than \$10,000 to
26 each Plaintiff, subject to the Court's approval. The Court finds that Enhancement Payments in
27 the amount of \$10,000 each to the Plaintiffs are reasonable in light of the risks and burdens
28

undertaken by the Plaintiffs in this litigation, for their time and effort in bringing and prosecuting this matter on behalf of the Class, and for their execution of a general release.

Settlement Administration Costs

13. The Settlement Administrator shall calculate and administer the payments to be made to the Class Members, transmit payment for attorneys' fees and costs to Class Counsel, transmit the Enhancement Payments to the Plaintiffs, distribute the PAGA Payment, issue any required tax reporting forms, calculate withholdings and perform the other remaining duties set forth in the Agreement. The Settlement Administrator (ILYM Group) has documented \$14,900 in fees and expenses, and this amount is reasonable in light of the work performed by the Settlement Administrator.

PAGA Payment

14. The Agreement provides for a PAGA Payment out of the Gross Settlement Amount of \$20,000, which shall be allocated 75% (\$15,000) to the Labor Workforce Development Agency ("LWDA") as the LWDA's share of the settlement of civil penalties paid under this Agreement pursuant to the PAGA and 25% (\$5,000) will be distributed to the Aggrieved Employees by dividing their total Qualifying Workweeks within the PAGA Claim Period by the total Qualifying Workweeks by all Aggrieved Employees within the PAGA Claim Period. That fraction will then be multiplied by the 25% portion of the PAGA Payment to arrive at the Aggrieved Employee's individual share. The Aggrieved Employees mean all non-exempt employees who worked for Defendants in California during the PAGA Claim Period (November 1, 2020, through February 12, 2023). All Aggrieved Employees will be sent their share of the PAGA Payment and will be subject to the release of the Released PAGA Claims as set forth below, whether or not they opt out of the Settlement. The Court finds this PAGA Payment to be fair and reasonable.

II.

ORDERS

Based on the foregoing findings, and good cause appearing, IT IS HEREBY ORDERED:

1 15. The Class is certified for the purposes of settlement only. The Class consists of
2 the Reimbursement Subclass and the Wage Subclass, which are hereby defined as follows:

- 3 • Reimbursement Subclass: All employees who are class members in the
4 Fernandez Action and worked for Defendants in California during the
5 Reimbursement Subclass Period, *i.e.* January 7, 2018, to March 24,
6 2021; and
- 7 • Wage Subclass: All employees who are class members in the
8 Fernandez Action and who worked for Defendants in California
9 between March 25, 2021, and February 12, 2023, and all other non-
10 exempt employees (i.e. employees who were not part of the release of
11 claims in the Fernandez Action) who worked for Defendants in
12 California during the time period of Wage Subclass Period, *i.e.* March
13 25, 2021, to February 12, 2023, for employees who are class members
14 in the Fernandez Action, and January 7, 2018, through February 12,
15 2023, for all other individuals within the Wage Subclass.

16 16. All persons who meet the foregoing definition are members of the Class, except
17 for three (3) individuals who filed valid requests for exclusion (“opt out”) from the Class, and
18 those three individuals are: _____.

19 17. The Agreement is hereby finally approved as fair, reasonable, adequate, and in the
20 best interest of the Class.

21 18. Galen T. Shimoda, Justin P. Rodriguez, Renald Konini of Shimoda & Rodriguez
22 Law, PC, Mark D. Potter and James M. Treglio of Potter Handy LLP, and Norman B.
23 Blumenthal, Kyle R. Nordrehaug, Aparajit Bhowmik, and Nicholas J. De Blouw of Blumenthal
24 Nordrehaug Bhowmik DeBlouw, LLP are confirmed as Class Counsel. Class Counsel are
25 awarded attorneys' fees in the amount of \$326,618.23 and costs in the amount of \$20,772.63.
26 Class Counsel shall not seek or obtain any other compensation or reimbursement from
27 Defendants, Plaintiffs or members of the Class.

28 19. Plaintiffs are confirmed as the representatives of the Class. The payment of the
Enhancement Payments in the amount of \$10,000 each to the Plaintiffs is approved.

 20. The payment of \$14,900 to the Settlement Administrator (ILYM Group) for their
fees and expenses is approved.

 21. The PAGA Payment of \$20,000 is approved and shall be allocated in accordance
with the Agreement.

1 22. The Agreement and this Settlement are not an admission by Defendants, nor is
2 this Final Approval Order and Judgment a finding, of the validity of any claims in the Action or
3 of any wrongdoing by Defendants or that this Action is appropriate for class treatment (other
4 than for settlement purposes). Neither this Final Approval Order and Judgment, the Agreement,
5 nor any document referred to herein, nor any action taken to carry out the Agreement is, may be
6 construed as, or may be used as an admission by or against Defendants of any fault, wrongdoing
7 or liability whatsoever. The entering into or carrying out of the Agreement, and any negotiations
8 or proceedings related thereto, shall not in any event be construed as, or deemed to be evidence
9 of, an admission or concession with regard to the denials or defenses by Defendants.
10 Notwithstanding these restrictions, Defendants may file in the Action or in any other proceeding
11 this Final Approval Order and Judgment, the Agreement, or any other papers and records on file
12 in the Action as evidence of the Settlement to support a defense of res judicata, collateral
13 estoppel, release, or other theory of claim or issue preclusion or similar defense as to the
14 Released Class Claims and/or Released PAGA Claims.

15 23. Notice of entry of this Final Approval Order and Judgment shall be given to all
16 Parties by Class Counsel on behalf of Plaintiff and all Class Members. The Final Approval
17 Order and Judgment shall be posted on Settlement Administrator's website as set forth in the
18 Class Notice to the Class. It shall not be necessary to send notice of entry of this Final Approval
19 Order and Judgment to individual Class Members.

20 24. If the Agreement does not become final and effective in accordance with the
21 terms of the Agreement, then this Final Approval Order and Judgment, and all orders entered in
22 connection herewith, shall be rendered null and void and shall be vacated, and the Parties shall
23 revert to their respective positions as of before entering into the Agreement, and expressly
24 reserve their respective rights regarding the prosecution and defense of this Action, including all
25 available defenses and affirmative defenses, and arguments that any claim in the Action could
26 not be certified as a class action and/or managed as a representative action.

27 **IT IS HEREBY ORDERED, ADJUDICATED AND DECREED THAT:**
28

1 25. Except as set forth in the Agreement and this Final Approval Order and Judgment,
2 Plaintiffs, and all members of the Class, shall take nothing in the Action.

3 26. The Parties are authorized, with approval from the Court, to agree to and to adopt
4 such amendments, modifications and expansions of the Agreement and all exhibits attached
5 thereto which are consistent with this Final Approval Order and Judgment and do not limit the
6 rights of the Parties or Class Members under the Agreement.

7 27. Each party shall bear its own attorneys' fees and costs, except as otherwise
8 provided in the Agreement and in this Final Approval Order and Judgment.

9 28. The "Released Parties" collectively mean: Defendants, as well as Defendants'
10 officers, shareholders, directors, agents, employees, attorneys, and insurers.

11 29. Upon the Effective Date, all Participating Class Members will be deemed to fully,
12 finally and forever release the Released Class Claims as to all Released Parties. "Released Class
13 Claims" means the following for Class Members within the Wage Subclass: Any and all claims
14 that are alleged in the operative Complaint, and any additional wage and hour claims that could
15 have been brought based on the facts alleged in the operative Complaint, through the Wage
16 Subclass Period. This release excludes the release of reimbursement claims and other claims not
17 permitted by law including claims for vested benefits, wrongful termination, violation of the Fair
18 Employment and Housing Act, unemployment insurance, disability, social security, workers'
19 compensation, and California class claims outside of the Class Period. For Class Members within
20 the Reimbursement Subclass, "Released Class Claims" means any and all reimbursement claims
21 that are alleged in the operative Complaint, and any additional reimbursement claims that could
22 have been brought based on the facts alleged in the operative Complaint through the
23 Reimbursement Subclass Period. This release excludes the release of any wage and hour claims
24 that are not reimbursement claims and other claims not permitted by law including claims for
25 vested benefits, wrongful termination, violation of the Fair Employment and Housing Act,
26 unemployment insurance, disability, social security, workers' compensation, and California class
27 claims outside of the Class Period.
28

1 30. Upon the Effective Date, all Aggrieved Employees will be deemed to fully,
2 finally and forever release the Released PAGA Claims as to all Released Parties. “Released
3 PAGA Claims” means any and all claims for civil penalties that were brought under the Private
4 Attorneys General Act, Labor Code §§ 2698 et seq., contained in the operative Complaint and
5 any additional wage and hour PAGA claims that could have been brought based on the facts
6 alleged in the operative Complaint during the PAGA Claim Period. Aggrieved Employees
7 cannot opt out of this waiver of claims. The Released PAGA Claims do not include other PAGA
8 claims, underlying wage and hour claims, claims for wrongful termination, discrimination,
9 unemployment insurance, disability and worker’s compensation, and PAGA claims outside of
10 the PAGA Claim Period.

11 31. Upon the Effective Date, Plaintiffs will be deemed to fully, finally and forever
12 release the Released Class Claims, Released PAGA Claims, and Class Representatives’ Released
13 Claims as to all Released Parties. In addition, on the Effective Date, Plaintiffs and any successors
14 in interest will be permanently enjoined and forever barred from prosecuting any of the Released
15 Class Claims, Released PAGA Claims, and Class Representatives’ Released Claims against any
16 of the Released Parties. This release does not extend to Plaintiff Peter Hall’s claim for
17 constructive discharge that he is separately settling.

18 32. The Court hereby enters judgment in the entire Action as of the filing date of this
19 Final Order, pursuant to the terms set forth in the Settlement. Without affecting the finality of
20 this Final Order in any way, the Court hereby retains continuing jurisdiction over the
21 interpretation, implementation, and enforcement of the Settlement and all orders entered in
22 connection therewith pursuant to California Code of Civil Procedure section 664.6.

23 **LET JUDGMENT BE FORTHWITH ENTERED ACCORDINGLY. IT IS SO**
24 **ORDERED.**

25
26 Dated: _____

27 _____
28 HON. JILL H. TALLEY
JUDGE, SUPERIOR COURT OF CALIFORNIA
COUNTY OF SACRAMENTO