

Larry W. Lee (State Bar No. 228175)
Kristen M. Agnew (State Bar No. 247656)
Nicholas Rosenthal (State Bar No. 268297)
DIVERSITY LAW GROUP, P.C.
515 S. Figueroa Street, Suite 1250
Los Angeles, CA 90071
(213) 488-6555
(213) 488-6554 facsimile

William L. Marder, Esq. (State Bar No. 170131)
POLARIS LAW GROUP LLP
501 San Benito Street, Suite 200
Hollister, CA 95023
Tel: (831) 531-4214
Fax: (831) 634-0333
bill@polarislawgroup.com

Attorneys for Plaintiff and the Class

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

HERMIE EVANGELISTA, as an individual
and on behalf of all others similarly situated,

Plaintiff,

vs.

LINDE INC.; and DOES 1 through 50,
inclusive,

Defendants.

Case No.: 22STCV26341

**~~PROPOSED~~ ORDER GRANTING
PLAINTIFF'S MOTION FOR PRELIMINARY
APPROVAL OF CLASS AND
REPRESENTATIVE ACTION SETTLEMENT**

Date: February 27, 2024

Time: 10:00 a.m.

Dept.: 7

Complaint Filed: August 15, 2022

FILED
Superior Court of California
County of Los Angeles

04/24/2024

David W. Slayton, Executive Officer / Clerk of Court

By: A. Morales Deputy

1 Plaintiff Hermie Evangelista’s (“Plaintiff” or the “Class Representative”) application for
2 an Order Granting Preliminary Approval of Class Action Settlement was filed with the Court on
3 January 26, 2024, and a hearing was held before this Court on February 27, 2024. Plaintiff and
4 Defendant Linde Inc. (“Defendant”) appeared through their respective counsel of record.

5 The Court has considered the Joint Stipulation of Class and Representative Action
6 Settlement (“Agreement” or “Settlement Agreement”) and all other papers filed in this action.

7 NOW THEREFORE, IT IS HEREBY ORDERED:

8 1. This Court grants preliminary approval of the Settlement Agreement between
9 Plaintiff and Defendant filed herewith. The Settlement Agreement appears to be fair, adequate,
10 and reasonable to the Class;

11 2. The Class Representative and Defendant (hereafter, the “Parties”), through their
12 counsel of record in the Action, have reached an agreement to settle all claims in the Action on
13 behalf of the Class (as defined below and in the Settlement Agreement) as a whole;

14 3. The Court hereby conditionally certifies the following classes for settlement
15 purposes only: (i) all employees who are or previously were employed as commercial truck
16 drivers by Defendant in California and received “sleeper miles” pay during the period of August
17 15, 2021 through January 19, 2024 (the “Wage Statement Class”); and (ii) all employees who
18 are or previously were employed as commercial truck drivers by Defendant in California during
19 the period of August 15, 2018 through July 2, 2023 (“Expense Reimbursement Class
20 Members”);

21 4. Should for whatever reason the Settlement Agreement not become Final, the fact
22 that the Parties were willing to stipulate to certification of a class as part of the Settlement
23 Agreement shall have no bearing on, or be admissible in connection with, the Action or the
24 issue of whether a class should be certified in a non-settlement context.

25 5. The Court appoints and designates: (a) Plaintiff Hermie Evangelista as the Class
26 Representative; and (b) Larry W. Lee, Kristen M. Agnew, and Nicholas Rosenthal of Diversity
27 Law Group, P.C., and William L. Marder of Polaris Law Group as Class Counsel. Class
28 Counsel is authorized to act on behalf of the Class with respect to all acts or consents required

1 by, or which may be given, pursuant to the Settlement Agreement, and such other acts
2 reasonably necessary to finalize the Settlement Agreement and its terms. Any Class Member
3 may enter an appearance through his or her own counsel at such Class Member's own expense.
4 Any Class Member who does not enter an appearance or appear on his or her own behalf will be
5 represented by Class Counsel.

6 6. The Court hereby approves the terms and conditions provided for in the
7 Settlement Agreement. The Court finds that on a preliminary basis the Settlement Agreement
8 falls within the range of reasonableness of a settlement, and appears to be presumptively valid,
9 subject only to any objections that may be raised at the final fairness hearing and final approval
10 by the Court. It appears to the Court on a preliminary basis that the settlement is fair, adequate,
11 and reasonable as to all potential Class Members when balanced against the probable outcome
12 of further litigation relating to liability and damages issues. It also appears that investigation,
13 research, and court proceedings have been conducted so that counsel for the Parties are able to
14 reasonably evaluate their respective positions. It appears to the Court that settlement at this time
15 will avoid substantial additional costs by all Parties, as well as avoid the delay and risks that
16 would be presented by the further prosecution of the Action. It also appears that settlement has
17 been reached as a result of intensive, serious, and non-collusive arm's-length negotiations.

18 7. A Final Fairness and Final Approval Hearing on the question of whether the
19 proposed Settlement Agreement, the allocation of payments to Settlement Class Members,
20 attorneys' fees and costs to Class Counsel, settlement administration costs, and the Class
21 Representative Payment should be finally approved as fair, reasonable, and adequate as to the
22 members of the Class is hereby set for September 3, 2024 at 10:00 a.m. in this Court.

23 8. The Court hereby approves, as to form and content, the Notice of Class Action
24 Settlement ("Class Notice") to be sent to Class Members, which is attached as **Exhibit A** to the
25 Settlement Agreement. The Court finds that distribution of the Class Notice to Class Members
26 substantially in the manner and form set forth in the Settlement Agreement and this Order meets
27 the requirements of due process and shall constitute due and sufficient notice to all parties
28 entitled thereto.

1 9. The Court appoints and designates Phoenix Administrators as the Settlement
2 Administrator. The Court hereby directs the Settlement Administrator to provide the approved
3 Class Notice to Class Members using the procedures set forth in the Settlement Agreement.

4 10. Any Class Member may choose to opt out of and be excluded from the
5 settlement as provided in the Settlement Agreement and Class Notice and by following the
6 instructions to request exclusion. Provided, however, that no Class Member may opt out of or
7 be excluded from participating in the settlement of the Released PAGA Claims.

8 11. Any person who timely and properly opts out of the settlement will not be bound
9 by the Settlement Agreement or have any right to object, appeal, or comment thereon. Any opt
10 out request must be in writing and signed by each such Class Member opting out and must
11 otherwise comply with the requirements delineated in the Class Notice. Class Members who
12 have not requested exclusion by submitting a valid and timely opt out request, by the opt out
13 deadline, shall be bound by all determinations of the Court, the Settlement Agreement, and
14 Judgment.

15 12. Any Class Member may object to the Settlement Agreement or express his or her
16 views regarding the Settlement Agreement, and may present evidence and file briefs or other
17 papers that may be proper and relevant to the issues to be heard and determined by the Court as
18 provided in the Class Notice.

19 13. The Motion for Final Approval shall be filed by the Class Representative no later
20 than sixteen (16) court days before the Final Fairness and Final Approval Hearing.

21 14. The Court reserves the right to adjourn or continue the date of the Final Fairness
22 and Final Approval Hearing and all dates provided for in the Settlement Agreement without
23 further notice to the Class, and retains jurisdiction to consider all further applications arising out
24 of or connected with the Class Settlement Agreement.

25 IT IS SO ORDERED.

26 DATED: 04/24/2024



A handwritten signature in black ink, appearing to read "Lawrence P. Riff".

Lawrence P. Riff / Judge

HON. LAWRENCE P. RIFF
SUPERIOR COURT OF CALIFORNIA