

1 DANIEL F. GAINES, ESQ. SBN 251488
daniel@gaineslawfirm.com
2 ALEX P. KATOFISKY, ESQ. SBN 202754
alex@gaineslawfirm.com
3 EVAN S. GAINES, ESQ. SBN 287668
evan@gaineslawfirm.com
4 **GAINES & GAINES, APLC**
4550 East Thousand Oaks Boulevard, Suite 100
5 Westlake Village, California 91362
Telephone: (818) 703-8985
6 Facsimile: (818) 703-8984

7 Attorneys for Plaintiff Nicholas Wilkerson
and Proposed Class Counsel
8

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **FOR THE COUNTY OF SACRAMENTO**
11

12 NICHOLAS WILKERSON, individually
and on behalf of all similarly situated
13 individuals,

14 Plaintiff,

15 v.

16 OFFICIAL PEST PREVENTION, INC., a
Delaware corporation, and DOES 1
17 through 10, inclusive,

18 Defendants.
19
20
21

CASE NO: 34-2022-00328182

Assigned to the Hon. Laura Damrell, Dept. 28

CLASS ACTION

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

DATE: August 18, 2023

TIME: 9:00 a.m.

DEPT.: 28

Reservation # A-328182-001

Action Filed: October 10, 2022

1 Plaintiff Nicholas Wilkerson's ("Plaintiff") Unopposed Motion for Preliminary Approval
2 of Class Action Settlement came on for hearing before this Court in Department 28, Judge Laura
3 Damrell presiding, on August 18, 2023. The Court, having considered the papers submitted in
4 support of the motion and having heard oral argument of the parties, **HEREBY ORDERS THE**
5 **FOLLOWING:**

6 1. The Court grants preliminary approval of the settlement based upon the terms set
7 forth in the Settlement Agreement and Release of Claims ("Settlement") filed with the Court. The
8 settlement appears to be fair, adequate, and reasonable to the Class;

9 2. The Court finds that the settlement falls within the range of reasonableness and
10 appears to be presumptively valid, subject only to any objections that may be raised at the final
11 hearing;

12 3. The Court approves, as to form and content, the Notice of Pendency of Proposed
13 Class Action Settlement and Final Hearing ("Notice"), attached as Exhibit 1 to the Settlement, and
14 the Request for Exclusion ("Exclusion Form"), attached as Exhibit 2 to the Settlement, and also
15 approves the procedure for members of the Class to object to or opt out from the settlement set
16 forth in the Notice;

17 4. The Court directs the mailing of the Notice and Exclusion Form by first class mail
18 to the Settlement Class Members in accordance with the schedule set forth below. The Court finds
19 that the dates selected for the mailing and distribution of the Notice and Exclusion Form, as set
20 forth herein, meet the requirements of due process and provide the best notice practicable under the
21 circumstances and shall constitute due and sufficient notice to all persons entitled thereto;

22 5. It is ordered that the Settlement Class is preliminarily certified for settlement
23 purposes only. The Settlement Class is defined as follows: all non-exempt employees of Defendant
24 in California at any time between October 10, 2018 and the earlier of August 5, 2023 or the date
25 the Court grants preliminary approval of this Settlement;

26 \\\

27 \\\

28 \\\

6. The Court approves and appoints Daniel F. Gaines and Alex P. Katofsky of Gaines & Gaines, APLC as Class Counsel, and grants preliminary approval of an award of attorneys' fees of up to 33-1/3% of the Gross Settlement Amount (or \$331,500), and documented litigation costs of up to \$15,000 to Class Counsel, subject to final approval by the Court following a further motion by Class Counsel;

7. The Court approves and appoints Plaintiff Nicholas Wilkerson as the Class Representative and grants preliminary approval to proposed Service Payment and General Release Payment to the Class Representative in an amount not to exceed \$12,000;

8. The Court grants preliminary approval of the allocation of \$100,000 to penalties under the Private Attorneys General Act (Labor Code §§ 2698 et seq.), of which 75% (\$75,000) shall be paid to the Labor and Workforce Development Agency and 25% (\$25,000) shall be paid to Aggrieved Employees as part of the Net Settlement Proceeds;

9. The Court hereby approves and appoints Phoenix Settlement Administrator as the Claims Administrator and grants preliminary approval of the payment of fees and other charges of the Claims Administrator in an amount not to exceed \$12,000;

10. The Court orders the following schedule of dates for the specified actions/further proceedings:

<u>EVENT</u>	<u>TIMING</u>
Last day for Defendant to provide to the Claims Administrator a list of all Class Members, including their last known addresses, telephone numbers, social security numbers, and their dates of employment in a non-exempt position in California during the Class Period ("Settlement Class Information")	10 calendar days after entry of Court's Order granting preliminary approval of Settlement
Last day for Claims Administrator to mail Notice and Exclusion Form to Class Members	20 calendar days after entry of Court's Order granting preliminary approval of Settlement
Last day for Class Members to submit a written Exclusion Form to the Claims Administrator	45 calendar days after the initial mailing of the Class Notice to Class Members
Last day for Class Members to submit an Objection to the Claims Administrator	45 calendar days after the initial mailing of the Class Notice to Class Members

<u>EVENT</u>	<u>TIMING</u>
Last day for Class Counsel to file and serve moving papers in support of final settlement approval and request for attorneys' fees and costs	10 calendar days before the final settlement approval hearing date
Last day for Class Counsel to file with the Court and serve declaration by Claims Administrator specifying the due diligence undertaken with regard to the mailing of the Notice	10 calendar days before the final settlement approval hearing date
Final settlement approval hearing	_____, 2023, at _____.m. (approximately 90 days after entry of this Order)

IT IS SO ORDERED.

Dated: _____

JUDGE OF THE SUPERIOR COURT