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Clerk of the Superior Court
By T. Automation , Deputy Clerk

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO**

ROBERT BENNETT *et al.*

Plaintiff,

vs.

PATRIOT ENVIRONMENTAL SERVICES,
INC., *et al.*

Defendants.

Case No. 37-2022-00044044-CU-OE-CTL

Hon. Matthew C. Braner
Dept. 60

CLASS ACTION

**Notice of Entry of Order Granting Final
Approval and Entering Judgment**

Action Filed: November 1, 2022

1 TO THE COURT, ALL PARTIES AND THEIR ATTORNEYS OF RECORD, PLEASE
2 TAKE NOTICE THAT:

3 1. On September 13, 2024, at 9:00 a.m. in this Department, the Court entered the Order
4 Granting Final Approval of Class Action Settlement and Attorneys' Fees and Costs and Entering
5 Judgment attached hereto as Exhibit 1.

6 2. The Judge confirmed the Court's Tentative Ruling attached hereto as Exhibit 2 with
7 the additional order that the attorneys' fees requested in the settlement were approved in full.

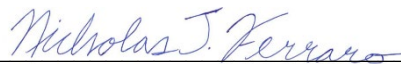
8 3. A copy of this Notice has been submitted to the LWDA via its online electronic portal
9 in accordance with Labor Code § 2699(1)(3).

10 4. Notice of the Court's final ruling and entry of judgment is hereby provided.
11

12 Respectfully submitted,

13
14 Dated: October 18, 2024

Ferraro Vega Employment Lawyers, Inc.

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16 Nicholas J. Ferraro
17 Attorney for Plaintiffs
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EXHIBIT 1

FILED
Clerk of the Superior Court

SEP 13 2024

By: B. Delgado, Deputy

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO**

ROBERT BENNETT, *et al.*

Plaintiff,

vs.

PATRIOT ENVIRONMENTAL SERVICES,
INC., *et al.*

Defendants.

Case No. 37-2022-00044044-CU-OE-CTL

Hon. Matthew C. Braner
Dept. 60

CLASS ACTION

**Amended [~~Proposed~~] Order Granting Final
Approval of Class Action Settlement and
Attorneys' Fees and Costs and Entering
Judgment**

Motion for Final Approval/Attorneys' Fees:

Date: September 13, 2024

Time: 9:00 a.m.

Action Filed: November 1, 2022

1 This matter came on for hearing on September 13, 2024 at 9:00 a.m. in Department 60 of the
2 above-captioned Court, the Honorable Matthew C. Braner presiding, on (1) Plaintiffs' Motion for Final
3 Approval of Class Action Settlement and (2) Plaintiffs' Motion for Attorneys' Fees and Costs.

4 Having received and considered the motions and supporting papers, including the Class Action
5 and PAGA Settlement Agreement ("Settlement"), the evidence and documents received by the Court
6 in connection with the Motions for Final Approval and Attorneys' Fees and Costs, and the previously
7 decided Motion for Preliminary Approval, the Court GRANTS FINAL APPROVAL of the Settlement
8 and ORDERS AND MAKES THE FOLLOWING DETERMINATIONS:

9 1. Pursuant to the terms of the Settlement and the Order Granting Preliminary Approval,
10 and the Settlement, a notice was sent to each class member by first-class U.S. mail. The notice
11 informed the class of the terms of the Settlement, their right to receive a settlement payment without
12 any required action, their right to comment upon or object to the Settlement, and their right to appear
13 in person or by counsel at the Final Approval Hearing and to be heard regarding approval of the
14 Settlement. Adequate periods of time were provided for each of these procedures.

15 2. Zero class members returned a written objection to the proposed Settlement as part of
16 the notice process or stated an intention to appear at the Final Approval Hearing and there were no
17 dissenting appearances from class members at the hearing. One class member requested exclusion
18 from the Settlement: Ashkan A. Moghaddam. This "opt out" is affirmatively excluded from the class
19 settlement.

20 3. The Court finds and determines the notice procedure afforded adequate protections to
21 the class and provides the basis for the Court's informed decision regarding approval of the Settlement
22 based the response. The Court finds and determines the notice provided was the best notice
23 practicable, satisfying the requirements of law and due process.

24 4. For purposes of approving this Settlement only, this Court finds and concludes: (a) the
25 proposed class is ascertainable and so numerous that joinder of all members of the class is
26 impracticable; (b) there are questions of law or fact common to the proposed class, and there is a well-
27 defined community of interest among members of the class with respect to the subject matter of the
28 claims; (c) the claims of the representative are typical of the claims of the class; (d) the class

representatives have and will fairly and adequately protect the interests of the class; (e) a class action is superior to other available methods for an efficient adjudication of this controversy in the context of settlement; and (f) the law firms of Ferraro Vega Employment Lawyers, Inc., and Gaines Law Corporation are qualified and adequate to serve as Class Counsels in this action.

5. The Court confirms certification, for settlement purposes only, of the class as defined in the Settlement and approved at the preliminary approval stage.

6. The Court finds and determines the terms set forth in the Settlement are fair, reasonable, and adequate and, having found the Settlement was reached as a result of informed and non-collusive arms'-length negotiations facilitated by a neutral and experienced mediator, directs the Parties to effectuate the Settlement according to its terms. The Court further finds the Parties conducted extensive investigation, research, and informal discovery, and that their attorneys were able to reasonably evaluate their respective positions. The Court also finds that Settlement will enable the Parties to avoid additional and potentially substantial litigation costs, as well as delay and risks if the Parties were to continue to litigate the case. The Court has reviewed the monetary recovery and recognizes the significant value provided to the Class. Therefore, the Court approves the Settlement and incorporates the terms of the Settlement in full into this Final Approval Order as though fully set forth herein.

7. The Court finds and determines the fees and expenses in administering the Settlement incurred by the Settlement Administrator of \$10,500 are fair and reasonable. The Court orders these administration costs be paid in accordance with the terms of the Settlement.

8. The Court finds and determines the Service Awards of \$10,000 to each named Plaintiff as fair and reasonable. The Court orders the service awards be paid in accordance with the terms of the Settlement.

9. The Court finds and determines payment to the California Labor and Workforce Development Agency of \$37,500, as its 75% share of the civil penalties under the Private Attorneys General Act is fair, reasonable, and appropriate. The Court orders that amount be paid in accordance with the terms of the Settlement and approves the settlement of claims under the Private Attorneys General Act pursuant to Labor Code § 2699(1)(2).

1 10. Pursuant to the terms of the Settlement and the statutory provisions authorizing
2 attorneys' fees under the California Labor Code and Code of Civil Procedure, as set forth in the Motion
3 for Attorneys' Fees, the Court awards Class Counsels attorneys' fees of \$342,097.62 and litigation
4 costs of \$16,226.66. Class Counsels have sufficiently explained the basis for the fee award based on
5 a percentage of the fund. The Court finds such amounts to be fair and reasonable. The Court orders
6 the Settlement Administrator to make these payments in accordance with the Settlement. Moreover,
7 because the escalator clause has triggered as set forth in supplemental declaration of the Administrator,
8 on file with the Court, pursuant to the terms of the Settlement, the Gross Settlement Amount shall be
9 \$1,026,395.50.

10 11. Without affecting the finality of this Order or the entry of judgment in any way, the
11 Court retains jurisdiction of all matters relating to the interpretation, administration, implementation,
12 and enforcement of this Order and the Settlement.

13 12. Nothing in this Order shall preclude any action to enforce the Parties' obligations under
14 the Settlement or under this Order, including the requirement that Defendant make payments to Class
15 Members in accordance with the Settlement.

16 13. The Court hereby ENTERS FINAL JUDGMENT in accordance with the terms of the
17 Settlement, in accordance with this Final Approval Order and Judgment.

18 14. The Parties shall comply with Cal. Rules of Court Rule 3.771(b), by filing a Notice of
19 Entry of Judgment with the Court.

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21 **IT IS SO ORDERED.**

22
23 Date: 9/13/24



The Honorable Matthew C. Braner
Judge of the Superior Court

EXHIBIT 2

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN DIEGO
CENTRAL COURTHOUSE

TENTATIVE RULINGS - September 12, 2024

HEARING DATE: 9/13/24 HEARING TIME: 9:00 a.m. DEPT.: 60

JUDICIAL OFFICER:

CASE NO.:37-2022-00044044-CU-OE-CTL

CASE TITLE: Bennett vs Patriot Environmental Services Inc [IMAGED]

CASE TYPE: (U)Other Employment

HEARING TYPE:

Plaintiffs Robert Bennett and Randall Kunsman's unopposed motion for final approval of class action settlement is **GRANTED**. The settlement terms are fair and in compliance with the requirements of *Dunk v. Ford Motor Co.* (1996) 48 Cal. App. 4th 1794, 1800-1801.

Plaintiffs' request for payment of \$10,500 to CPT Group, Inc., the Settlement Administrator, is reasonable and within the parameters defined by the settlement agreement, and is therefore approved.

The court will hear from Plaintiffs' counsel regarding the motion for attorney fees and costs, in light of its comments below.

Plaintiffs request \$316,635 in attorney fees, \$16,226.66 in costs, and for a \$10,000.00 incentive award to each Plaintiff. Based on experience with the southern California legal markets, including Los Angeles and San Diego, and the evidence and legal authority provided in the moving papers, the court concludes the cost request is reasonable, as are the service award requests. However, the court questions the reasonableness of the request for \$316,635 in attorney fees based on one-third of the \$950,000 settlement.

In a common fund case such as this, the percentage method is the preferred method of determining attorney fees. (*Laffitte v. Robert Half & Associates* (2016) 1 Cal.5th 480, 494.) The percentage method has recognized advantages in these circumstances, including the "relative ease of calculation, alignment of incentives between counsel and the class, a better approximation of market conditions in a contingency case, and the encouragement it provides counsel to seek an early settlement and avoid unnecessarily prolonging the litigation." (*Id.* at p. 503.)

This court has previously approved fee awards equal to one-third the common fund. Nonetheless, the court has discretion to use a lodestar crosscheck to assist its analysis of the reasonableness of the requested fee award. (*Laffitte, supra*, 1 Cal.5th at p. 503-06.) Here, a lodestar crosscheck raises serious questions as to the reasonableness of the fee award because the lodestar (\$93,600 for Ferraro Vega Employment Lawyers, Inc., and \$33,100 for Gaines Law Corporation, for a total of \$126,700) was calculated using relatively high hourly rates, but still requires a 2.5 multiplier to bring it within the range of the percentage amount, for a case filed less than two years ago, which never reached class certification, did not involve issues of unusual or substantial complexity, and was settled within 15 months of it being filed.

A high multiplier has been considered acceptable in California State and Federal cases; however, based on a comparison of the facts in those cases to the circumstances in this case, the court is inclined to award less than one-third of the common fund. (See, e.g., *Vizcaino v. Microsoft Corp.* (9th Cir. 2002) 290 F.3d 1043, 1051 [affirming fee award of 28% of \$97 million settlement (\$27 million fee award) and approving use of 3.65 multiplier in lodestar crosscheck only because the ERISA case was highly complex and lengthy (9 years at time of award, 10 years at time of appeal)]; *Sutter Health Uninsured Pricing Cases* (2009) 171 Cal.App.4th 495, 512 [approving multiplier of 2.52 in lodestar crosscheck because fee award of nearly \$4 million was only 1.4 percent of the \$276 million recovery, and the eight-year case was “hotly contested”]; *Willner v. Manpower Inc.* (N.D. Cal., June 22, 2015), no. 11-cv-02846-JST, 2015 WL 3863625, at *7 [reducing \$3 million fee request based on 1/3 of common fund to \$2,625,000 fee award based on 30% of common fund, and using 2.1 multiplier in lodestar crosscheck in the four-year case]; *Dyer v. Wells Fargo Bank, N.A.* (N.D. Cal., Oct. 22, 2014) 303 F.R.D. 326, 333-34 [request for nearly \$3.7 million in fees and costs based on 25% of \$14.74 million settlement, allowing use of 2.83 multiplier in lodestar crosscheck to confirm reasonableness]; *Hopkins v. Stryker Sales Corp.* (N.D. Cal., Feb. 6, 2013), no. 11-cv-02786-LHK, 2013 WL 496358 at *3-5 [\$1.4 million fee request based on 1/3 of \$4,250,000 settlement fund reduced to \$1,275,000 based on 30% of settlement fund, and allowing use of 2.76 multiplier in lodestar crosscheck because the plaintiffs achieved class certification].)