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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF RIVERSIDE
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11 CARLOS FLORES, individually, on a
12 representative basis, and on behalf of all
13 others similarly situated;

14 Plaintiff,

15 vs.

16 NIKKISO AMERICA, INC., a Delaware
17 Corporation; ACD, LLC, a California
18 Limited Liability Company; CRYOGENIC
19 INDUSTRIES, INC., a Delaware
20 Corporation; CRYOGENIC INDUSTRIES
21 SERVICE COMPANIES, LLC, a California
22 Limited Liability Company; CRYOQUIP,
LLC, a California Limited Liability
Company; COSMODYNE, LLC, a
California Limited Liability Company; and
DOES 1 through 20, inclusive;

23 Defendants.
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Case No.: CVRI2204626
*[Assigned to Hon. Harold Hopp, Dept 1, for
all purposes]*

**[PROPOSED] ORDER GRANTING
FINAL APPROVAL OF SETTLEMENT;
AND ENTRY OF FINAL JUDGMENT**

Complaint filed: October 25, 2022

1 Plaintiff Carlos Flores’s (“Plaintiff” or “Class Representative”) Motion for Final
2 Approval of the Settlement (the “Final Approval Motion”), as set forth in the Class and PAGA
3 Settlement Agreement and Release of Claims¹ (the “Settlement Agreement”) came for hearing in
4 Department 1 of the above-entitled court. The Final Approval Motion was unopposed by
5 Defendants Nikkiso America, Inc., ACD, LLC, Cryogenic Industries, Inc., Cryogenic Industries
6 Service Companies, LLC, Cryoquip, LLC, Cosmodyne, LLC, and Integrated Cryogenic
7 Solutions, LLC (collectively, “Defendants”). Having considered the Final Approval Motion, the
8 Settlement Agreement, the Declarations, and all other materials properly before the Court and
9 having conducted an inquiry pursuant to California Rules of Court, rule 3.769(g), the Court finds
10 that the Settlement Agreement was entered by all parties in good faith, and the Settlement
11 Agreement is approved. Due and adequate notice having been given to the Class, and the Court
12 having considered the Settlement Agreement, all papers filed and proceedings had herein and all
13 oral and written comments received regarding the proposed settlement, and having reviewed the
14 record in this Litigation, and good cause appearing,

15 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:

16 1. The Court, for purposes of this Judgment and Order (“Judgment”), refers to all
17 defined terms (i.e., terms with initial capitalization) as set forth in the Settlement Agreement.

18 2. The Court has jurisdiction over the subject matter over this Action, the Class
19 Representative, the Class Members, the Aggrieved Employees, and Defendants. The Court
20 finally appoints Plaintiff as Class Representative, and further appoints Brian Mankin and Peter
21 Carlson of Lauby Mankin Lauby LLP as Class Counsel.

22 3. For purposes of effectuating this Order and Judgment, this Court has certified the
23 two classes of employees, the ACD Class and Cryogenic Class, which are further defined as
24 follows:

- 25 a. ACD Class: All current and former nonexempt (hourly paid) employees
26 employed by Defendant ACD, LLC (which also does business in California as
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¹ See Exhibit A to the Declaration of Brian Mankin in support of the Motion for Final Approval, which was
concurrently filed on October 4, 2024.

ACD and Nikkiso ACD) in California during the ACD Class Period of January 1, 2020, through January 16, 2024. (Settlement Agreement ¶¶ 2-4).

b. Cryogenic Class: All current and former nonexempt (hourly paid) employees employed by Defendants Nikkiso America, Inc., ACD, LLC, Cryogenic Industries, Inc., Cryogenic Industries Service Companies, LLC, Cryoquip, LLC, Cosmodyne, LLC, and Integrated Cryogenic Solutions, LLC in California during the Cryogenic Class Period of October 25, 2018, through December 31, 2019. (Settlement Agreement ¶¶ 2-4).

c. The Court deems these definitions sufficient for purposes of California Rules of Court, rule 3.765(a).

4. As set forth in the Settlement Agreement, Aggrieved Employees includes: “All current and former nonexempt (hourly paid) employees employed by Defendant ACD, LLC, in California from the PAGA Period of October 25, 2021, through January 16, 2024.”

5. The Court finds that the distribution of the Class Notice, Objection Form, Dispute Form and Exclusion Form (collectively attached as Exhibit “A” to the Declaration of Mayra Gonzalez filed on October 4, 2024), as provided for in the Order Granting Preliminary Approval for the Settlement, constituted the best notice practicable under the circumstances to all Class Members and fully met the requirements of California law and due process under the California and United States Constitution. Based on evidence and other material submitted, the actual notice to the class was adequate.

6. The Court finds that the instant Action presented a good faith dispute of the claims alleged, and the Court finds in favor of settlement approval.

7. The Released Class Claims on behalf of the Participating Class Members included:

a. all claims stated in the operative Complaint and those based solely upon the facts in the Complaint, including: (1) failure to pay minimum wages, (2) failure to pay overtime wages, (3) failure to provide meal periods, (4) failure to provide rest breaks, (5) failure to reimburse business expenses, (6) failure to

1 timely pay final wages, (7) failure to provide accurate itemized wage
2 statements, and (8) unfair and unlawful competition. The time period
3 governing the Released Class Claims shall be any time during the Class
4 Period.

5 8. The PAGA Released Claims on behalf of the Aggrieved Employees included:

6 a. all PAGA claims that Plaintiff alleged against the Released Parties based on
7 the facts stated in the relevant LWDA notice letter and only to the extent that
8 they are alleged in the operative Complaint, including all PAGA claims
9 seeking civil penalties premised upon: (1) failure to pay minimum wages, (2)
10 failure to pay overtime wages, (3) failure to provide meal periods, (4) failure
11 to provide rest breaks, (5) failure to reimburse business expenses, (6) failure to
12 timely pay wages each period, (7) failure to timely pay wages upon separation
13 of employment, (8) failure to provide accurate itemized wage statements, and
14 (9) all other claims for civil penalties recoverable under the Private Attorneys
15 General Act, Labor Code §§ 2698 et seq. based on the facts or claims alleged
16 in the LWDA notice letters and Complaint. The time period governing the
17 Released PAGA Claims shall be any time during the PAGA Period.

18 9. By this Order and Judgment, the Class Representative shall release, relinquish,
19 and discharge the Released Class Claims, as defined in the Settlement Agreement. Additionally,
20 by this Judgment, each of the Participating Class Members shall be deemed to have, and by
21 operation of the Judgment shall have, fully, finally, and forever released, relinquished, and
22 discharged all Released Class Claims.

23 10. By this Order and Judgment, Plaintiff and the LWDA shall fully, finally, and
24 forever release, relinquish and discharge Defendants and the Released Parties from all PAGA
25 Released Claims, as defined in the Settlement Agreement and above.

26 11. One Class Member submitted a blank Objection Form, which is attached as
27 Exhibit B to the Administrator's declaration. Because the Objection was blank and contained no
28 supporting information, it is overruled.

1 12. There were no Requests for Exclusion from the Settlement. Thus, all Class
2 Members are deemed to be Participating Class Members who are entitled to payment pursuant to
3 the Settlement and this Judgment. Furthermore, all Aggrieved Employees are entitled to
4 payment pursuant to this Settlement and Judgment.

5 13. The Court approves the Settlement, as set forth in the Settlement Agreement and
6 each of the releases and other terms, as fair, just, reasonable, and adequate as to the Parties. The
7 Parties are directed to perform in accordance with the terms set forth in the Settlement
8 Agreement and this Order and Judgment.

9 14. The Parties are to bear their own costs, except as otherwise provided in the
10 Settlement Agreement and this Order and Judgment.

11 15. With respect to the Class and for purposes of approving this Settlement, this Court
12 finds and concludes as follows: (a) the Class Members are ascertainable and so numerous that
13 joinder of all members is impracticable; (b) there are questions of law or fact common to the
14 Class Members, and there is a well-defined community of interest among the Class Members
15 with respect to the subject matter of the Action; (c) the claims of Class Representative are typical
16 of the claims of the Class Members; (d) the Class Representative has fairly and adequately
17 protected the interests of the Class Members; (e) a class action is superior to other available
18 methods for an efficient adjudication of this controversy; and (f) the counsel of record for the
19 Class Representative, i.e., Class Counsel, are qualified to serve as counsel for the Plaintiff in his
20 individual and representative capacity and for the Class.

21 16. The Settlement is not an admission of wrongdoing or violation by Defendants or
22 any of the other Released Parties, nor is this Judgment a finding of the validity of any claims in
23 the Action or of any wrongdoing by Defendants or any of the other Released Parties. Neither
24 this Settlement Approval Order, the Settlement, or the Judgment nor any document referred to
25 herein, nor any action taken to carry out the Settlement are, may be construed as, or may be used
26 as an admission by or against Defendants or any of the other Released Parties of any fault,
27 wrongdoing or liability whatsoever.
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1 17. The Settlement Amount to be paid under the Settlement Agreement is
2 \$460,000.00. From this amount, Class Counsel sought an award of attorney's fees of
3 \$153,333.33 (one-third of the Settlement Amount), litigation expenses of \$22,910.05, Settlement
4 Administrator Costs of \$9,000 to Phoenix Settlement Administrators, and \$22,500 to the LWDA
5 for PAGA penalties and \$7,500 to the Aggrieved Employees. Defendants do not oppose these
6 requests. The Court finds that the Settlement Amount is fair, reasonable and adequate, and
7 awards the amounts set forth below from the Settlement Amount:

- 8 A) \$153,333.33 to Class Counsel for attorneys fees (one-third of the GSA);
9 B) \$22,910.05 to Class Counsel for costs/expenses;
10 C) \$9,000 to the Settlement Administrator, Phoenix Settlement
11 Administrators;
12 D) \$22,500 to the LWDA;
13 E) \$7,500 to the Aggrieved Employees;
14 F) After deducting the foregoing payments from the Settlement Amount, the
15 remainder shall form the Net Settlement Amount payable to the Participating Class
16 Members as set forth in the Settlement Agreement and as calculated by the Settlement
17 Administrator.

18 18. Defendants directed to jointly and severally fund the Settlement Amount in
19 accordance with the Settlement Agreement and the timeline set forth below. Administrator is
20 directed to calculate the Participating Class Member's Individual Class Payments from the Net
21 Settlement Amount, as well as the Aggrieved Employees Individual PAGA Payments, and issue
22 all payments within in accordance with the Settlement Agreement and the timeline set forth
23 below:

24 October 28, 2024	The Effective Date occurs.
25 November 12, 2024 26 (15 days after the Effective Date)	Defendants shall jointly and severally 27 deposit the Settlement Amount with the 28 Settlement Administrator, and separately pay Defendants share of payroll taxes.

November 22, 2024 (10 days after receipt of Payment)	Settlement Administrator to issue all payments.
May 21, 2025 (180 days after checks are mailed)	Deadline for Participating Class Members and Aggrieved Employees to cash checks.
June 20, 2025	Counsel to file a declaration from the Settlement Administrator setting forth the disbursements that were actually made, including the status of issuing any uncashed funds.
Date: _____, 2025 Time: 8:30 a.m.	Final Report Hearing re: status of funding.

19. The envelope transmitting the settlement checks shall bear the notation “YOUR CLASS ACTION SETTLEMENT CHECK IS ENCLOSED.” Concurrently with mailing the settlement checks to the Participating Class Members and Aggrieved Employees, the Settlement Administrator shall include a Notice of Entry of Judgment to all Class Members either on a postcard or as a detachable portion of the check for the Participating Class Members, noting the following: “Please be advised that on [INSERT DATE] the Superior Court of California for the County of Riverside entered Judgment in the case entitled *Flores v. Nikkiso America, Inc., ACD, LLC, Cryogenic Industries, Inc., Cryogenic Industries Service Companies, LLC, Cryoquip, LLC, Cosmodyne, LLC, and Integrated Cryogenic Solutions, LLC.*, Case No. CVRI2204626, on behalf of the Participating Class Members, which includes all members of the ACD Class and Cryogenic Class, which are further defined as follows: (A) ACD Class: All current and former nonexempt (hourly paid) employees employed by Defendant ACD, LLC (which also does business in California as ACD and Nikkiso ACD) in California during the ACD Class Period of January 1, 2020, through January 16, 2024; and (B) Cryogenic Class: All current and former nonexempt (hourly paid) employees employed by Defendants Nikkiso America, Inc., ACD, LLC, Cryogenic Industries, Inc., Cryogenic Industries Service Companies, LLC, Cryoquip, LLC,

1 Cosmodyne, LLC, and Integrated Cryogenic Solutions, LLC in California during the Cryogenic
2 Class Period of October 25, 2018, through December 31, 2019.”.”

3 20. Participating Class Members and Aggrieved Employees shall have 180 days to
4 negotiate the settlement check from the date of issuance by the Settlement Administrator. If a
5 check has not been cashed within 60 days after issuance, the Settlement Administrator shall mail
6 a reminder postcard within 10 days thereafter and provide the Participating Class Member with
7 the deadline to cash the check. If any check that is issued to a current employee of Defendants is
8 returned to the Settlement Administrator as undeliverable and the Settlement Administrator is
9 unable to locate a valid mailing address, then the Settlement Administrator shall arrange with the
10 Defendants to have the check(s) delivered to the Participating Class Member at their place of
11 employment. In the event that a Participating Class Member and/or Aggrieved Employee does
12 not negotiate his/her check within this time period, the check will be canceled. The value of the
13 unclaimed funds in the Settlement Administrator’s account as a result of a failure to timely cash
14 a settlement check shall be issued to the California State Controller’s Office in the name of the
15 Participating Class Member and/or Aggrieved Employee.

16 21. This document shall constitute a Judgment for purposes of California Rule of
17 Court 3.769(h). The Court reserves exclusive and continuing jurisdiction over the Action, the
18 Class Representative, the Class Members, the Aggrieved Employees, and Defendants for the
19 purposes of supervising the implementation, enforcement, construction, administration, and
20 interpretation of the Settlement Agreement and this Judgment.

21 IT IS SO ORDERED.

22 Dated: _____

23 _____
24 Hon. Harold Hopp
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