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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF KERN

SERGIO RODRIGUEZ, as an individual and
on behalf of all others similarly situated,

Plaintiff,

v.

SUPERIOR TANK CO., INC., a California
corporation; and DOES 1 through 100,
inclusive,

Defendants.

Case No. BCV-23-100144 consolidated with
Case No. BCV-23-100926

*[Case Assigned to Hon T. Mark Smith
department T-2]*

**[PROPOSED] ORDER GRANTING
PLAINTIFF'S MOTION FOR FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT, CLASS
REPRESENTATIVE'S SERVICE
PAYMENT, AND ATTORNEYS' FEES AND
COSTS**

Date: November 20, 2024
Time: 8:30 a.m.
Dept.: T-2

Complaint Filed: January 17, 2023

1 This matter came on regularly for hearing before this Court on November 20, 2024,
2 pursuant to California Rule of Court 3.769 and this Court's July 15, 2024 Order Granting
3 Preliminary Approval of Class Action Settlement ("Preliminary Approval Order"). Having
4 considered the parties' Stipulation of Class Action and PAGA Settlement ¹ and the documents
5 and evidence presented in support thereof, and recognizing the sharply disputed factual and legal
6 issues involved in this case, the risks of further prosecution and the substantial benefits to be
7 received by the Settlement Class pursuant to the Settlement, the Court hereby makes a final
8 ruling that the proposed Settlement is fair, reasonable, and adequate, and is the product of good
9 faith, arm's-length negotiations between the parties. Good cause appearing therefor, the Court
10 hereby GRANTS Plaintiff's Motion for Final Approval of Class Action Settlement and
11 ORDERS as follows:

12 1. The conditional class certification contained in the Preliminary Approval Order is
13 hereby made final, and the Court thus certifies, for purposes of the Settlement only, a Settlement
14 Class consisting of:

15 All current and former non-exempt employees of Defendant Superior Tank
16 Co., Inc. who worked for Defendant in California during the Class Period.

17 The "Class Period" shall mean the time period of January 17, 2019 through
18 the date the Court issues an order preliminarily approving the Settlement
19 Agreement (July 15, 2024).

20 2. Plaintiff Sergio Rodriguez is hereby confirmed as Class Representative, and Scott
21 M. Lidman and Milan Moore of Lidman Law, APC and Paul K. Haines of Haines Law Group,
22 APC are hereby confirmed as Class Counsel.

23 3. Notice was provided to the Settlement Class as set forth in the Settlement. The
24 form and manner of notice were approved by the Court on July 15, 2024 and the notice process
25 has been completed in conformity with the Court's Order. The Court finds that said notice was

26
27 ¹ Unless otherwise indicated, all terms used in this Order shall have the same meaning as that
assigned to them in the Settlement.

1 the best notice practicable under the circumstances. The Class Notice provided due and adequate
2 notice of the proceedings and matters set forth therein, informed Settlement Class members of
3 their rights, and fully satisfied the requirements of California Code of Civil Procedure § 1781(e),
4 California Rule of Court 3.769, and due process.

5 4. The Court finds that none of the 232 Settlement Class members objected to the
6 Settlement and zero (0) Settlement Class Members have opted out of the Settlement, and that the
7 99.5% participation rate in the Settlement supports final approval.

8 5. The Court hereby approves the settlement as set forth in the Settlement
9 Agreement as fair, reasonable, and adequate, and directs the parties to effectuate the Settlement
10 Agreement according to its terms.

11 6. For purposes of settlement only, the Court finds that (a) the members of the
12 Settlement Class are ascertainable and so numerous that joinder of all members is impracticable;
13 (b) there are questions of law or fact common to the Settlement Class, and there is a well-defined
14 community of interest among members of the Settlement Class with respect to the subject matter
15 of the litigation; (c) the claims of the Class Representative are typical of the claims of the
16 members of the Settlement Class; (d) the Class Representative has fairly and adequately
17 protected the interests of the Settlement Class members; (e) a class action is superior to other
18 available methods for an efficient adjudication of this controversy; and (f) Class Counsel are
19 qualified to serve as counsel for the Class Representative and the Settlement Class.

20 7. The Court finds that given the absence of objections to the Settlement, and
21 objections being a prerequisite to appeal, that this Order shall be considered final as of the date
22 of notice of entry.

23 8. The Court orders that Defendant shall fully fund the Gross Settlement Amount,
24 and also fund the amounts necessary to fully pay Defendant's share of payroll taxes by
25 transmitting the funds to the Administrator as follows: The payment of \$550,000.00, including
26 all amounts necessary to fully pay Defendant's share of payroll taxes, shall be deposited with
27 the Administrator no later than 60 business days after the Effective Date. Effective Date" is

defined as the latter of: (a) the Court's final approval of the settlement if no objections by or on behalf of Class Members have been filed; (b) the time for appeal has expired if an objection has been filed and no appeal has been filed or withdrawn; or (c) the final resolution of any appeal that has been filed.

9. Any Settlement funds that remain uncashed after 180 calendar days after they are mailed shall be delivered to the California Secretary of State – Unclaimed Property Fund in the name of the Settlement Class member.

10. The Court finds that the settlement payments, as provided for in the Settlement, are fair, reasonable, and adequate, and orders the Settlement Administrator to distribute the individual payments in conformity with the terms of the Settlement.

11. The Court finds that a service payment in the amount of \$7,500.00 for Plaintiff Sergio Rodriguez is appropriate for his risks undertaken and service to the Settlement Class. The Court finds that this award is fair, reasonable, and adequate, and orders that the Settlement Administrator make this payment in conformity with the terms of the Settlement.

12. The Court finds that attorneys' fees in the amount of \$183,333.33, and actual litigation costs of \$10,027.62 for Class Counsel, are fair, reasonable, and adequate, and orders that the Settlement Administrator distribute these payments to Class Counsel in conformity with the terms of the Settlement.

13. The Court orders that the Settlement Administrator shall be paid \$8,250.00 from the Gross Settlement Amount for all of its work done and to be done until the completion of this matter, and finds that sum appropriate.

14. The Court finds that the payment to the California Labor & Workforce Development Agency ("LWDA") in the amount of \$15,000.00 for its 75% share of the \$20,000.00 settlement of Plaintiff's representative action under the California Labor Code Private Attorneys General Act ("PAGA") is fair, reasonable, and adequate, and orders the Settlement Administrator to distribute this payment to the LWDA in conformity with the terms of the Settlement. The remaining 25% or \$5,000.00 of the PAGA Amount is to be distributed to

the 144 PAGA Employees in conformity with the terms of the Settlement. The highest Individual PAGA Payment to an Aggrieved Employee is \$57.33, and the average Individual PAGA Payment to be paid is \$34.72.

15. After the above deductions, attorneys' fees (\$183,333.33), attorneys' litigation costs (\$10,027.62), incentive payment to Plaintiff (\$7,500.00), Settlement Administrator costs (\$8,250.00), and the PAGA Amount to the LWDA (\$15,000.00), the Net Settlement Amount of \$305,916.67 is to be distributed to 232 Settlement Class members, that worked a total of 27,499.64 workweeks during the Class Period, in conformity with the terms of the Settlement. The lowest Individual Settlement Share to be paid to a Settlement Class member is \$0.77, the highest Individual Settlement Share is \$3,135.83, and the average Individual Settlement Share to be paid is \$1,297.05.

16. Pursuant to the terms of the Settlement, the employer's share of payroll taxes for the portion of the Net Settlement Amount allocated to wages shall be paid by Defendant separately, and in addition to, the Gross Settlement Amount.

17. The Court finds and determines that upon satisfaction of all obligations under the Settlement and this Order, all Settlement Class members will be bound by the Settlement, will have released the Released Claims as set forth in the Settlement, and will be permanently barred from prosecuting against Defendant any of the Released Claims pursuant to the Settlement.

18. The Settlement is not an admission by Defendant nor is this Order a finding of the validity of any allegations or of any wrongdoing by Defendant. Neither this Order, the Settlement, nor any document referred to herein, nor any action taken to carry out the Settlement, shall be construed or deemed an admission of liability, culpability, or wrongdoing on the part of Defendant.

18. The Court will retain jurisdiction to enforce the Settlement, this Final Approval Order, and the Judgment entered in connection with the Settlement.

19. A Non-Appearance Case Review Re. Distribution Report is scheduled for August 30, 2025 in Department T-2 at Kern County Superior Court Courthouse.

1 20. A declaration from the Settlement Administrator regarding the disbursement of
2 Settlement funds shall be filed on or before noon on August 23, 2025.

3 **IT IS SO ORDERED.**

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5 Dated: _____, 2024

6 Honorable T. Mark Smith
7 Judge of the Superior Court
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