

OCT 23 2019

Sherri R. Carter, Executive Officer/Clerk
By: Stephanie Chung, Deputy

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

ANDRES FLORES, an individual; SAL
MAGANA, an individual;

Plaintiffs,

v.

RENTOKIL NORTH AMERICA, INC.; and
DOES 1 through 100, inclusive,

Defendants.

CASE NO: BC 713774

Assigned to: Hon. Daniel J. Buckley

CLASS ACTION

~~Proposed~~
**ORDER GRANTING PLAINTIFFS'
MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT**

Preliminary Approval Hearing Held:
October 23, 2019

Action filed: July 23, 2018

WHEREAS, the Court has been advised that the parties to this action have agreed, subject to Court approval following a hearing, to settle this putative class action upon the terms and conditions set forth in the Stipulation of Settlement¹ (the "Settlement"); and

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¹ A copy of the Settlement is attached as Exhibit 1 to the Declaration of Brian D. Hefelfinger, filed concurrently with the Plaintiffs' Motion for Preliminary Approval of Class Action Settlement and for Class Certification for Settlement Purposes.

1 WHEREAS Plaintiffs ANDRES FLORES and SAL MAGANA approve of the Settlement; and
2 WHEREAS Defendant RENTOKIL NORTH AMERICA, INC. (the "Defendant") approves of the
3 Settlement;

4 NOW, THEREFORE, this matter having come before this Court, with Palay Hefelfinger, APC as
5 Class Counsel appearing for Plaintiffs and Ogletree Deakins et al. appearing for Defendant, having considered
6 all briefs, evidence, and argument regarding Plaintiffs' Motion for Preliminary Approval of Class Settlement
7 and for Class Certification for Settlement Purposes (the "Motion"), which Defendant has not opposed, and for
8 good cause appearing therefor,

9 **IT IS HEREBY ORDERED that as follows:**

10 (1) Plaintiffs' Motion is GRANTED as set forth herein.

11 (2) Upon preliminary examination, that the settlement set forth therein is within the range of
12 reasonableness, and that a hearing should and will be held after notice to the Settlement Class to confirm that
13 the Settlement is fair, adequate, and reasonable, and to determine whether a Judgment should be entered in this
14 action based thereon.

15 (3) This Order Granting Preliminary Approval of Class Action Settlement and Class Certification
16 for Settlement Purposes ("Preliminary Approval Order"), hereby incorporates by reference the definitions in
17 the Settlement, and all terms used herein shall have the same meanings as set forth in that Settlement.

18 (4) The Court hereby GRANTS preliminary approval of the Settlement. The following class (the
19 "Settlement Class") is conditionally certified for the purposes of this Settlement:

20 All individuals currently or previously employed by Defendant as a Pest Technician
21 (or similar role) that have worked under a Steritech compensation plan within
22 California from July 23, 2014 to the date of preliminary approval herein (collectively,
23 referred to as the "Class Members").

24 (5) This Court preliminarily approves the Settlement as set forth therein and finds that the
25 Settlement is within the range of reasonableness as to Class Members and Defendant, was reached after
26 substantial investigation and discovery, and is the product of good faith, arm's-length negotiations between the
27 parties. This Court finds that the proposed release is appropriately tailored to the claims at-issue and that the
28 allocation of payment among wages, penalties, and interest for tax purposes is reasonable.

- 1 a. Pursuant to the request of the Court and based on the agreement of the Parties thereto, the
2 Court hereby orders that the first sentence of Par. VII.A. of the Stipulation of Settlement is
3 hereby modified to read as follows: **“Upon final approval and when the settlement**
4 **becomes “Final” as defined in Par. I.E. of the Stipulation of Settlement,** Named
5 Plaintiffs and all members of the Settlement Class, except those that make a valid and
6 timely request to be excluded from the Settlement ...”
- 7 b. “Final” is defined the Settlement as meaning: “(1) the date of final affirmation of the Final
8 Approval from any appeal, the expiration of the time for, or the denial of, a petition to
9 review the Final Approval, or if review is granted, the date of final affirmation of the Final
10 Approval following review pursuant to that grant; or (2) the date of final dismissal of any
11 appeal from the Final Approval or the final dismissal of any proceeding to review the
12 Final Approval, provided that the Final Approval is affirmed and/or not reversed in any
13 part; or (3) if no appeal is filed, the expiration date of the time for the filing or noticing of
14 any appeal from the Court's Final Approval of the Settlement, as determined under Rule
15 8.104(a)(3) of the California Rules of Court.”
- 16 c. Accordingly, the release in this matter shall be effective on the “Final” Date, rather than
17 upon the date of final approval.

18 (6) This Court finds that Brian D. Hefelfinger and Daniel J. Palay, of the Palay Hefelfinger, APC
19 firm, are sufficiently experienced and proficient in class action proceedings that they may act as Class
20 Counsel, and further, finds that plaintiffs ANDRES FLORES and SAL MAGANA may act as Class
21 Representatives for settlement purposes only. The Court further authorizes the retention of CPT Group, Inc.
22 as Claims Administrator.

23 (7) The Court hereby conditionally certifies the proposed Settlement Class and conditionally finds
24 that, solely for the purposes of approving this settlement and for no other purpose and with no other effect on
25 this litigation, the proposed Settlement Class meets the requirements for certification under section 382 of the
26 *California Code of Civil Procedure*, including that: (a) the proposed settlement class members are
27 ascertainable and so numerous that joinder of all members is impracticable; (b) there are predominant
28 questions of law or fact common to the Settlement Class, and there is a well-defined community of interest

1 amongst the members of the Settlement Class with respect to the subject matter of the litigation; (c) the claims
2 of the Representative Plaintiffs are typical of the claims of the members of the settlement Subclasses; (d) the
3 Representative Plaintiffs will fairly and adequately protect the interests of the members of the class; (e) a class
4 action is superior to other available methods for an efficient method of adjudication of this controversy; and (f)
5 Class Counsel is qualified to act as counsel for the Representative Plaintiffs in their individual and
6 representative capacities.

7 (8) The Court approves the Notice of Class Action Settlement, in form attached to the Proposed
8 Order submitted in connection with the October 23rd Preliminary Approval Hearing (the "Notice"). The
9 Notice provides information on the meaning and nature of the Settlement Class, the terms and provisions of
10 the Settlement, the manner in which payments to class members will be calculated, the application of
11 Plaintiffs' counsel for reimbursement of costs and attorney's fees, the Representative Plaintiffs' request for
12 incentive awards, the date, time, and place of the final approval/final fairness hearing, the procedures and
13 deadlines for requesting exclusion from the Settlement Class and/or objecting to the Settlement. The Notice
14 fully complies with the requirements of California law and due process, constitutes the best notice practicable
15 under the circumstances, and is due and sufficient notice to all persons entitled to notice of the Settlement of
16 the instant action.

17 (9) The Notice shall be provided to the members of the Settlement Class in the following manner:
18 a. Within fifteen (15) days of this Preliminary Approval Order, Defendant shall
19 provide to the Claims Administrator in electronic form, a list of each Class Member, including each
20 Class Member's name, last known home address, number of workweeks as a class member during the
21 settlement period, and social security number (the "Database"). The Database shall be based on
22 Defendant's payroll, personnel, and/or other business records and provided in a format acceptable to
23 the Claims Administrator. Defendant agrees to consult with the Claims Administrator prior to the
24 production date to ensure that the format will be acceptable to the Claims Administrator. The Claims
25 Administrator shall maintain the Database, and all data contained within the Database, as private and
26 confidential and shall not disclose such data to any persons or entities, except that relevant information
27 may be provided to Class Counsel to the extent necessary to address a disputed claim or to respond to a
28 specific inquiry from a Class Member. Upon receipt of the Database, the Claims Administrator shall

1 check the names of former employee Class Members with the U.S. Postal Service National Change of
2 Address Database and update any addresses with any new information found regarding the location of
3 those Class Members. The Claims Administrator will update the Database with all new contact
4 information found pursuant to its obligations in this paragraph, or based on information provided by
5 Class Members during the Claims process.

6 b. Within fifteen (15) days of receiving the Database from Defendant, the Claims
7 Administrator will send via first class mail the Settlement Documents to the Class Members. The
8 envelope in which the Settlement Documents are mailed shall state in bold, capital letters the following,
9 or similar words to the same effect, on the front: "IMPORTANT: INFORMATION CONCERNING
10 CLASS ACTION SETTLEMENT PROCEEDS FOR THE RECIPIENT."

11 c. If any Settlement Documents are returned to the Claims Administrator as
12 undeliverable, the Claims Administrator shall run a skip-trace using that Class Member's social
13 security number in an effort to attempt to ascertain the current address of the Class Member. If such
14 address is ascertained, the Claims Administrator shall re-mail the Settlement Documents within five (5)
15 calendar days. If alternative addresses are obtained for a Class Member, the Claims Administrator shall
16 send the Settlement Documents to up to three alternative addresses.

17 d. Settlement Class Members will have a full forty-five (45) calendar days from the
18 original mailing date of the Settlement Documents, or ten (10) days from the re-mailing date,
19 whichever is later, in which to request exclusion (by completing and returning an Opt-Out Letter) from
20 the Settlement. All settlement Class Members who properly request exclusion shall be excluded from
21 the Class and shall have no rights under the Settlement Agreement.

22 e. Settlement Class Members will have a full forty-five (45) calendar days from the
23 original mailing date of the Settlement Documents, or ten (10) days from the re-mailing date,
24 whichever is later, in which to file a written objection to the Settlement.

25 (10) At least ten (10) court days prior to the Final Approval hearing, Plaintiffs will file a motion for
26 approval and judgment, any request for an attorney's fees award and/or reimbursement of litigation costs, and
27 Representative Plaintiffs' incentive awards, as well as a declaration from the Claims Administrator showing
28 its efforts to mail the Notice and process requests for exclusion and the results thereof.

1 (11) Defendant denies that they have engaged in any unlawful activity, have failed to comply with
2 the law in any respect, or have any liability to anyone under the claims asserted in this litigation. Furthermore,
3 Plaintiffs do not concede any of Defendant's affirmative defenses nor assent to any of their denials. The
4 parties entered into the Settlement solely for the purpose of reaching a compromise on highly disputed claims
5 and nothing therein is an admission of liability or wrongdoing by Defendant. Neither the Settlement nor any
6 document prepared in connection with the Settlement may be admitted in any proceeding as an admission by
7 the parties, or any person within the definition of the Class.

8 (12) The final approval hearing shall be held at 10:30 a.m. on April 13, ~~2019~~, ²⁰²⁰, in
9 Department 1 of this Court, to determine whether the proposed Settlement is fair, adequate, reasonable, and
10 should be approved. Plaintiffs' papers in support of the Settlement, and any application for award of
11 attorney's fees and costs to Class Counsel, incentive award to the Representative Plaintiff, and claims
12 administration costs to the Claims Administrator, shall be filed with the Court within the timeframe set forth in
13 paragraph 10, *supra*. The hearing date may be continued without further notice to the class.

14 (13) Should the proposed Settlement be approved, following the final approval hearing, this Court
15 shall enter judgment in the above-captioned matter in accordance with the Settlement that will adjudicate the
16 rights of all class members who do not opt out, including the named Plaintiffs.

17 (14) The Court will consider whether to approve Class Counsel's request for attorney's fees and
18 costs, incentive awards to the Class Representatives, and payment of Claims Administration expenses from
19 the maximum settlement amount at final approval.

20 (15) All members of the Settlement Class shall be bound by all determinations and judgments
21 made in accordance with the Settlement Agreement, whether favorable or unfavorable to the Settlement Class.

22 (16) Any member of the Settlement Class may enter an appearance, at his or her own expense,
23 individually or through counsel of his or her own choice at the Final Fairness Hearing. If they do not enter an
24 appearance, they will be represented by Class Counsel.

25 (17) Any member of the Settlement Class may appear and show cause, if he or she has any reason,
26 why the proposed settlement should or should not be approved as fair, reasonable, and adequate, or why a
27 Judgment of dismissal should or should not be entered thereon, or why attorneys' fees and costs should or
28 should not be awarded to Class Counsel in accordance with the Settlement Agreement; provided, however,


1 that no member of the Settlement Class or any other person shall be heard or entitled to contest the approval of
2 the terms and conditions of the proposed settlement, or, if approved, the Judgment of dismissal to be entered
3 thereon approving the same, or, if awarded, the enhancement award to Plaintiff, unless that person has either
4 (i) served by hand or sent by first class mail written objections and copies of any papers and briefs, at least 30
5 calendar days prior to the final fairness hearing, or (ii) appeared at the final approval hearing and requested to
6 have their objection(s) heard by the Court.

7 (18) Written objections to the settlement, if any, should be sent to CPT Group, Inc., *Attn: Flores v.*
8 *Rentokil Settlement*, located at 50 Corporate Park, Irvine, CA 92606. CPT Group, Inc. shall forward a copy of
9 any objections received to Class Counsel, as well as Defense Counsel. Any member of the Settlement Class
10 who does not make his or her objection in one of the two manners provided for herein shall be deemed to have
11 waived such objection and shall forever be foreclosed from making any objection to the fairness or adequacy
12 of the proposed settlement as incorporated in the Settlement Agreement and any award of attorneys' fees and
13 costs awarded to Class Counsel in accordance with the Settlement Agreement, unless otherwise ordered.

14 (19) The Court reserves the right to adjourn the date of the Final Fairness Hearing without further
15 notice to the members of the Settlement Class and retains jurisdiction to consider all further applications
16 arising out of or connected with the proposed Settlement Agreement. The Court may approve the Settlement
17 Agreement, with such modifications as may be agreed to by the settling Parties, if appropriate, without further
18 notice to the members of the Settlement Class.

19
20 IT IS SO ORDERED.

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22 DATED: Oct 23, 2019

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24 Judge of the Superior Court
25 DANIEL J. BUCKLEY
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