

**IN THE SUPERIOR COURT OF DOUGHERTY COUNTY, GEORGIA**

**TALLAHASSEE PEDIATRIC DENTISTRY, PLLC; PRETORIA FIELDS, LLC d/b/a PRETORIA FIELDS BREWERY; DENTAL PARTNERS OF SOUTHWEST GEORGIA; UPSTATE ORAL & MAXILLOFACIAL SURGERY, P.A.; UNION COUNTY EMS, SC; CLINT FULKS, INC.; VANA & SONS, LLC d/b/a/ THE HERITAGE TABLE; AHR SIGNS, INC. and LIT'L PEPPER GOURMET, INC.**

**Plaintiff,**

**v.**

**AIRGAS USA, LLC**

**Defendant.**

**Case No.: SUCV2020000006**

**CLASS ACTION**

**PROPOSED FINAL APPROVAL ORDER**

Pending before the Court is Plaintiffs' Motion for Final Approval of Class Action Settlement, Award of Attorneys' Fees, and Class Representative Incentive Awards. Defendant does not oppose this motion. Having reviewed all filings and conducted a hearing to consider the same, the Court GRANTS the motion, enters final judgment as follows, and grants final approval of the settlement:

**IT IS HEREBY ORDERED:**

1. With regard to the Settlement Class, the Court finds that (a) the members of the Settlement Class are so numerous that joinder is impracticable, (b) there are questions of law and fact common to the Settlement Class which predominate over any individual questions, (c) the claims of the named Plaintiffs are typical of those of the Settlement Class, (d) the named Plaintiffs and their counsel have fairly and adequately represented and protected the interests of

the members of the Settlement Class; and (e) a class action is superior for the fair and efficient adjudication of this consolidated litigation through settlement.

2. Therefore, pursuant to Georgia Code § 9-11-23, the Court grants final class certification the following Settlement Classes:

(A) Class A - customers of Airgas cylinders with a written (and executed by both sides) Cylinder Product Sales Agreement with Airgas for cylinder purchases who paid a Fuel Surcharge on cylinder purchases from January 1, 2014 through the date of preliminary approval;

(B) Class B-customers of Airgas bulk gases with a written (and executed by both sides) Bulk Product Sales Agreement with Airgas for bulk purchases who paid a Fuel Surcharge for bulk purchases from January 1, 2014 through the date of preliminary approval; and

(C) Class C-all other customers of Airgas without a fully executed written agreement with Airgas for cylinder or bulk purchases who paid a Fuel Surcharge for cylinder or bulk purchases from January 1, 2014 through the date of preliminary approval.<sup>1</sup>

3. The Court finds that notice of the settlement, as set out in the Settlement Agreement and directed by the Court's order granting preliminary approval, was the "best notice practicable under the circumstances...." Georgia Code § 9-11-23(c)(2). As demonstrated by the affidavit of the settlement administrator, the Court finds that the notice plan was effectively implemented and provided adequate information and time for members of the Settlement Class to act to protect their interests.

4. The Court finds that the settlement as set out in the Settlement Agreement is fair, reasonable, and adequate. The record before the Court establishes that the relevant factors,

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<sup>1</sup> Excluded from the Settlement Classes are: (1) government entities, (2) customer who are classified by Airgas as "Airgas strategic accounts" (whose contracts were individually negotiated), (3) any individual or entity currently in bankruptcy, (4) any individual or entity whose obligations were discharged in bankruptcy, (5) any judicial officer who has presided over any of the pending Litigation; and (6) Defendant, any parent, subsidiary, affiliate, or controlled person by Defendant, as well as the officers, directors, agents, servants, and employees of Defendants, and the immediate family members of such persons.

including the relief provided, the arms-length negotiations between the parties, and the risks to the parties, weigh heavily in favor of final approval of the proposed settlement.

5. The response of the Settlement Class to the proposed settlement further supports this conclusion. Less than .01% of the putative class chose to opt out of the proposed settlement. No objections were lodged either to any portion of the settlement or to the application for attorneys' fees or class representative incentive awards. These factors weigh heavily in support of approval of the settlement

6. The Court further finds, upon consideration of the record and applicable law including all factors identified in *Friedrich v. Fid. Nat. Bank*, 545 S.E.2d 107, 108 (Ga. App. 2001) (adopted from *Camden I Condominium Ass'n v. Dunkle*, 946 F.2d 768, 774 (11th Cir. 1991)), that Plaintiffs' request for attorneys' fees in the amount of less than one-third of the potential settlement fund is reasonable and fair given the effort expended, the risk assumed, the experience, reputation and ability of Class Counsel, the customary award, the contingent nature of the litigation, and the result obtained in this litigation. No objection is before the Court to such an award. The Court grants Plaintiffs' request and awards such fees.

8. The Court also approves and finds reasonable the class representative incentive awards sought by Plaintiffs in recognition of the services rendered and benefits conferred by the named plaintiffs on behalf of the Settlement Class.

9. The Court directs the parties to fulfill their remaining obligations as set forth in the Settlement Agreement, including through the funding and distribution of funds necessary to effectuate the Settlement as set out therein. The terms of the Settlement Agreement are incorporated by reference as partial basis for the Court's order.

10. The Court's designations of Class Counsel and Class Representatives set forth in the order granting preliminary approval of the settlement are confirmed.

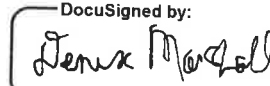
11. Final judgment is hereby entered, and the Court finds that all members of the Settlement Class that did not timely and properly exclude themselves are bound by the Settlement Agreement and release as set out therein.

12. The Court retains jurisdiction as to all matters relating to the administration, consummation, enforcement and interpretation of the Settlement Agreement and this Order.

2/15/2021

This the \_\_\_ day of February, 2021.

DocuSigned by:



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Hon. Denise Marshall  
Judge, Superior Court of Dougherty County

Prepared by:

/s/Patrick S. Flynn

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**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a copy of the within and foregoing Proposed Final Approval Order upon all counsel of record in this matter via eFile Peach Court and STATUTORY ELECTRONIC SERVICE as follows:

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This 16 day of February, 2021.

**Flynn & Phillips, LLC**

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