

**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**

**ORDER PRELIMINARY APPROVING SETTLEMENT  
AND PROVIDING FOR NOTICE**

Plaintiffs, without objection from Defendant, have made application for an order approving the settlement of this litigation, in accordance with the Settlement Agreement which, together with its exhibits, sets out the terms and conditions of the proposed settlement and notice to the Settlement Classes. Having reviewed the filings and conducted a hearing to consider the same, it is,

**HEREBY ORDERED:**

1. Pursuant to Georgia Code § 9-11-23, the Court preliminarily certifies, for purpose of effectuating the settlement only, the following Settlement Classes:

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

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

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

2. With regard to the Settlement Classes, the Court preliminarily finds that (a) the members of each of the Settlement Classes are so numerous that joinder is impracticable, (b) there are questions of law and fact common to each of the Settlement Classes which predominate over any individual questions, (c) the claims of the named Plaintiffs are typical of those of the Settlement Classes, (d) the named Plaintiffs and their counsel have fairly and adequately represented and protected the interests of the members of the Settlement Classes; and (e) a class action is superior for the fair and efficient adjudication of this consolidated litigation through settlement.

3. The Court appoints each named class representative, set out above, as representatives of the Settlement Classes.

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<sup>1</sup> Included within the Settlement Classes are the legal representatives, successors in interest, transferees and assigns of members of the Settlement. Excluded from the Settlement Classes are: (1) government entities, (2) customers of Airgas that do not qualify under Classes A, B and C including, without limitation, customers who are classified by Airgas as "Airgas Strategic Accounts" (whose contracts were highly negotiated; such agreements are not a "Cylinder Product Sales Agreement" or a "Bulk Product Sales Agreement" irrespective of their title), (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. A member of the Settlement Classes may be referred to as "Class Member" herein.

4. The Court appoints Oscar M. Price, IV and Nicholas W. Armstrong, of Price Armstrong, LLC, and Patrick S. Flynn, of Flynn & Phillips, LLC as Class Counsel for the Settlement Class.

5. The Court grants preliminary approval to the Settlement Agreement as the product of informed, non-collusive negotiations, without obvious deficiencies, which falls within a reasonable range.

6. The Court approves, as to form and content, the notice plan to the Settlement Classes proposed in the Settlement Agreement and its exhibits, and finds that this notice is the best notice practicable under the circumstances, and shall constitute due and sufficient notice to the members of the Settlement Classes.

7. Any Settlement Class Member may request to be excluded from his/her respective Settlement Class. Such requests for exclusion must be received Settlement Administrator, Class Counsel, and Defendant's Counsel on or before 14 days before Final Fairness Hearing and must otherwise comply with the requirements set forth in the Class Notice documents and Settlement Agreement. If the Court grants final approval of the Settlement Agreement and enters final judgment, all members of Settlement Classes who have not submitted valid requests for exclusion shall be bound by the Final Judgment.

8. The Final Fairness Hearing shall be held remotely via WebEx before this Court on February 15, 2021 at 12:30 pm to determine whether the final settlement of this litigation on the terms and conditions provided for in the Settlement Agreement is fair, reasonable, and adequate.

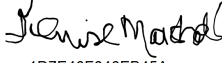
9. Any member of any of the Settlement Classes who wishes to object to the settlement may do so by filing a written objection with the Court and delivering a copy to counsel on or before 14 days before Final Fairness Hearing and must otherwise in comply with

the requirements set forth in the Class Notice documents and Settlement Agreement. No objector shall be heard and no objection shall be considered unless it complies with these requirements. The Court may impose additional requirements on objectors as it deems necessary or appropriate, including the posting of bond and providing of testimony or other discovery.

10. Members of any of the Settlement Classes may appear at the Final Fairness Hearing, at their own expense, individually or through counsel of their choice, by complying with the notice provisions set forth in the Class Notice documents and Settlement Agreement. If they do not enter an appearance, they will be represented by Class Counsel. If the Court grants final approval of the Settlement Agreement and enters final judgment, all members of the Settlement Classes who have not given appropriate notice of their intent to appear individually in accordance with the procedures outlined in the Class Notice documents and Settlement Agreement shall be deemed to have waived their right.

11. All filings in support of Final Approval and the distribution of attorney's fees and expenses, and class representative incentive awards, shall be filed and served no later than seven days before the Final Fairness Hearing.

SO ORDERED this 12/20/2020 day of December, 2020.

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Honorable Denise Marshall

Prepared by:

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