

**FILED**  
Clerk of the Superior Court

SEP 27 2021

By: S. Goodrich, Deputy

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SAN DIEGO**

LUIS QUINTERO, an individual, on behalf  
of himself and all others similarly situated,

Plaintiff,

vs.

SAN DIEGO ASSOCIATION OF  
GOVERNMENTS, and DOES 1-100,

Defendants.

Case No. 37-2019-00017834-CU-NP-CTL

CLASS ACTION

~~PROPOSED~~ ORDER GRANTING  
PRELIMINARY APPROVAL OF CLASS  
ACTION SETTLEMENT

Date: September 27, 2021  
Time: 9:00 AM  
Department: C-67  
Judge: Eddie C. Sturgeon

1 ORDER GRANTING PRELIMINARY APPROVAL

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3 On September 13, 2021, Plaintiff Luis Quintero on behalf of himself and the proposed  
4 Settlement Class (“Plaintiff”) and Defendant San Diego Association of Governments (“Defendant”  
5 or “SANDAG”) (collectively referred to as the “Parties”) entered into a Settlement Agreement and  
6 Release (“Agreement”), after an arms-length mediation, with the assistance of mediator Rachel  
7 Ehrlich, Esq.<sup>1</sup> The settlement reached by Plaintiff and Defendant will be referred to as the  
8 Settlement.

9 Plaintiff now moves this Court for an order preliminarily approving the Settlement and  
10 directing notice of the proposed Settlement be given to the Settlement Class upon the terms and  
11 conditions set forth in the Agreement. A hearing on the Motion occurred on September 27, 2021.

12 After carefully considering Plaintiff’s Motion for Preliminary Approval and accompanying  
13 declarations; the Agreement, including the accompanying Exhibits; and the applicable law, the Court  
14 finds on a preliminary basis that:

15 1. The proposed Settlement is within the range of reasonableness, and the Court will  
16 likely be able to approve it and enter judgment on it. The proposed Settlement does not improperly  
17 grant preferential treatment to any segment of the Settlement Class. The proposed Settlement is  
18 sufficient to warrant sending notice to the class members about the Settlement. The procedures for  
19 establishing and administering the benefits provided by the proposed Settlement and for notice to  
20 class members satisfy all constitutional and statutory requirements, including all due process  
21 requirements and the California Rules of Court.

22 2. The Court finds and determines that it will likely be able to certify the Settlement  
23 Class for purposes of judgment on the settlement proposal because: (i) the number of individuals in  
24 the Class is so numerous that joinder would be impractical; (ii) there is a commonality of interests  
25 between the Class Representative and the members of the Class; (iii) there are questions of law and  
26 fact that are common to the Class, and the common questions related to the settlement predominate  
27 over individual questions; (iv) the Class Representative’s claims are typical of the claims of absent

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<sup>1</sup> Unless otherwise defined, all terms used herein have the same meanings as set forth in the Agreement.

1 members of the Class; and (v) the Class Representative and Class Counsel will fairly and adequately  
2 represent the interests of the absent members of the Class. Defendant retains all rights to assert that  
3 this action may not be certified as a class action, other than for settlement purposes.

4 3. The Court has reviewed the class notices for the Settlement Class and the methods  
5 for providing notice and has determined that the parties will employ forms and methods of notice  
6 that constitute the best notice practicable under the circumstances; are reasonably calculated to  
7 apprise class members of the terms of the Settlement and of their right to participate in it, object, or  
8 opt-out; are reasonable and constitute due, adequate, and sufficient notice to all persons entitled to  
9 receive notice; and meet all constitutional and statutory requirements, including all due process  
10 requirements and the California Rules of Court.

11 **Accordingly, IT IS HEREBY ORDERED that:**

12 1. The Motion for Preliminary Approval is **GRANTED**. The Court preliminarily  
13 approves the Settlement.

14 2. The Court hereby certifies, for settlement purposes only, a Settlement Class  
15 consisting of: All individuals whose PII was provided by Defendant to any non-Defendant  
16 individual or entity between January 19, 2018 and the Settlement Class Period End Date, except as  
17 otherwise specified. The Settlement Class consists of:

- 18 • **Any person with a transponder account with SANDAG or a Non-Party Toll Agency**  
19 **whose PII was sent by Defendant to a Non-Party Toll Agency between January 19,**  
20 **2018 and the Settlement Class Period End Date (the “Interoperability Subclass”);**
- 21 • **Any person who used any of SANDAG’s Toll Roads whose PII was sent by the**  
22 **Defendant to a third party between January 19, 2018 and the Settlement Class Period**  
23 **End Date in connection with Defendant’s efforts to collect tolls and/or penalties (the**  
24 **“Collection/Enforcement Subclass); and**
- 25 • **Any person whose PII was sent by Defendant, acting as a transportation agency**  
26 **subject to Streets and Highways Code section 31490, to a third party between January**  
27 **19, 2018 and the Settlement Class Period End Date for any reason other than those**  
28 **listed above (the “Communications Subclass”).**

1 Excluded from the Settlement Class are: (1) employees of Defendant, including their current  
2 and former directors, officers, board members and counsel; (2) any entity that has a controlling  
3 interest in Defendant; (3) Defendant's affiliates and subsidiaries; and (4) the judge to whom this case  
4 is or was assigned, any member of the judge's immediate family, and any member of the judge's  
5 staff.

6 3. Class Representative. For purposes of the Settlement only, the Court preliminarily  
7 finds and determines that Plaintiff Luis Quintero will fairly and adequately represent the interests of  
8 the Class in enforcing their rights in the action and appoints him as Class Representative. The Court  
9 preliminarily finds that he is similarly situated to absent Settlement Class Members and therefore  
10 typical of the Class, and that he will be an adequate Class Representative. The Court preliminarily  
11 approves the payment of \$10,000 to Plaintiff as a service award, with payment coming out of the  
12 Settlement Fund.

13 4. Class Counsel. For purposes of the Settlement, the Court appoints Helen I. Zeldes  
14 and Ben Travis of Schonbrun Seplow Harris Hoffman & Zeldes, LLP; Blake J. Lindemann of  
15 Lindemann Law APC; and Michael J. Flannery of Cuneo Gilbert & LaDuca, LLP as Class Counsel  
16 to act on behalf of the Settlement Class and the Class Representative with respect to the Settlement.  
17 The Court authorizes Class Counsel to enter into the Settlement on behalf of the Class Representative  
18 and Settlement Class, and to bind them all to the duties and obligations contained therein, subject to  
19 final approval by the Court of the Settlement. The Court preliminarily approves the application for  
20 payment to Class Counsel of reasonable attorneys' fees of up to one-third of the Settlement Fund  
21 and reasonable costs and expenses, with payment coming out of the Settlement Fund.

22 5. Administration. Angeion Group is appointed as Class Administrator to administer the  
23 notice procedure and the processing of claims for the Settlement Class, under the supervision of  
24 Class Counsel.

25 6. Class Notice. The form and content of the proposed Notice of Class Action  
26 Settlement ("Long Form Notice"), the Email Notice, Mail Notice, and Publication Notice are hereby  
27 approved. The Parties and Class Administrator may amend the Class Notice documents as necessary  
28 to add dates, correct errors, and improve the information provided to Settlement Class Members.

1           7.     SANDAG is hereby ordered to provide to the Class Administrator, in an  
2 electronically searchable and readable format, information to be identified by SANDAG in  
3 SANDAG's discretion, that the Class Administrator will use to determine the names, last known  
4 email addresses, and last known mailing addresses held by Settlement Class Members, to the extent  
5 SANDAG determines that such information exists in its reasonably available computerized account  
6 records. The Court finds that the provision of the foregoing information by SANDAG to the Class  
7 Administrator is necessary so that reasonable notice can be given to the class, as required by state  
8 and federal constitutional provisions and due process, and so the Class Administrator can verify  
9 membership in the Settlement Class. The Court further finds and orders that compliance with this  
10 Order by SANDAG will not and does not violate California Streets & Highways Code section 31490  
11 or any other federal, state or local constitution, statute, rule, regulation or policy purporting to limit  
12 the disclosure of personally identifiable information.

13           8.     To effectuate this Order and to ensure adequate notice is provided to the members of  
14 the Settlement Class, and in accordance with the Court's general authority to protect its jurisdiction,  
15 the Court hereby permanently enjoins each and every member of the Settlement Class from filing or  
16 pursuing any claim or litigation against any of the persons and/or entities listed below in 8(a)-(b),  
17 asserting that compliance with the obligations imposed by this Order or the Agreement violates  
18 California Streets & Highways Code section 31490 or any other federal, state or local constitution,  
19 statute, rule, regulation or policy purporting to limit the disclosure of personally identifiable  
20 information:

- 21           a.     Any and all Released Parties (as defined in Section 2.24 of the Agreement);
- 22           b.     Any other person or entity who provides information to the Class  
23 Administrator pursuant to this Order, together with their respective officers, agents, employees and  
24 attorneys.

25           9.     The Class Administrator shall send the applicable Class Notice as provided by the  
26 Agreement via: (i) electronic mail, to the most recent email address of all persons in the Settlement  
27 Class for whom such information is reasonably available from the computerized records of  
28 SANDAG; (ii) first class mail, to the most recent mailing address of all persons in the Settlement

1 Class for whom there is no reasonably available email address or whose email notice is returned as  
2 undeliverable and for whom such mailing address is reasonably available from the computerized  
3 records of SANDAG; and (iii) via publication and social media ads for members of the  
4 Interoperability Subclass and any other members of the Settlement Class for whom no email or  
5 mailing address is reasonably available to SANDAG. The Notice will advise the class members of  
6 their ability to update their email address and/or mailing address with the Class Administrator.

7 10. The Class Administrator shall treat the records of class members as confidential and  
8 shall not disclose all or any portion of those records to any person or entity except as authorized by  
9 Court order. The Class Administrator shall use the records containing class member information  
10 solely for the purposes of providing notice to class members, verifying claim forms, and calculating  
11 and paying settlement awards. No copies of files containing the records may be made, nor may the  
12 records be utilized by the Class Administrator for any other purpose not specified in this Order.

13 11. Settlement Website. By the Settlement Notice Date, the Class Administrator shall  
14 maintain and administer a dedicated Settlement Website containing class information and related  
15 documents. At a minimum, such documents shall include the Agreement and attached exhibits, E-  
16 mail Notice, Mail Notice, this Preliminary Approval Order, all submissions regarding final  
17 settlement approval, any motion(s) for attorney's fees, costs, and/or service awards for the Class  
18 Representative, and the Final Approval Order. The Settlement Website shall permit members of the  
19 Settlement Class who elect to do so to register online to receive (a) email notice that the Court has  
20 granted Final Approval of the Settlement, (b) updates on the deadlines to submit Requests for  
21 Exclusion and make Objections, and (c) the status of payments under the terms of the Settlement.  
22 The Settlement Website shall be taken down and rendered inaccessible on the Final Distribution  
23 Date.

24 12. Claims. All claims must be postmarked or submitted electronically within eighty-  
25 four (84) days after the Settlement Notice Date ("Claims Deadline") as specified by the  
26 Agreement. Any class member who does not timely and properly submit a claim within the time  
27 provided for shall be forever barred from sharing in the distribution of the proceeds of the Settlement,  
28 unless otherwise agreed by the Parties or ordered by the Court, but will in all other respects be subject

1 to and bound by the provisions of the Agreement, the releases contained therein, this Order, the Final  
2 Judgment, and the Final Approval Order.

3 13. The Class Administrator shall review and process each claim to determine whether it  
4 qualifies for a settlement award, and in what amount, in accordance with the terms of the Agreement.  
5 Claims that do not meet the submission requirements may be rejected. Prior to rejecting a claim, in  
6 whole or in part, the Class Administrator shall communicate with the claimant in writing to give the  
7 claimant a reasonable opportunity to remedy any deficiencies in the claim.

8 14. Exclusions from the Settlement. Members of the Settlement Class who wish to  
9 exclude themselves from the Settlement Class must advise the Class Administrator by providing a  
10 written Request for Exclusion. The Request for Exclusion must be postmarked no later than eighty-  
11 four (84) days after the Settlement Notice Date (the “Exclusion Deadline”). In it, the class member  
12 must state his or her full name and address and must state that he or she wishes to be excluded from  
13 the Settlement. Any member of the Settlement Class who submits a valid and timely Request for  
14 Exclusion will not be a final class member of the Settlement and will not be bound by the terms of  
15 the Agreement (but will be bound by the injunction in paragraph 8, above). All members of the  
16 Settlement Class who do not submit a timely, valid Request for Exclusion, however, will be bound  
17 by the Agreement and the Judgment, including the releases and covenant not to sue.

18 15. Objections. Any Settlement class member who intends to object to the Settlement  
19 must file a written Objection with the Court no later than eighty-four (84) days after the Settlement  
20 Notice Date (the “Objection Deadline”). In the written Objection, the Settlement class member must  
21 state his or her (1) full name and address; (2) account number with SANDAG, if one exists; and (3)  
22 any other proof of Settlement Class membership if such proof exists. The written Objection must  
23 also state the reasons for the Settlement Class Member’s Objection and indicate whether he or she  
24 intends to appear at the Final Approval Hearing on his or her own behalf or through counsel. Any  
25 documents supporting the Objection must be attached to the Objection. The Parties shall have the  
26 right to obtain document discovery from and take the deposition of any objector relevant to the  
27 Objection. Any Settlement Class Member who has timely filed an Objection and indicated an intent  
28 to appear may appear at the Final Approval Hearing, either in person or through an attorney hired at

1 the Settlement Class Member's own expense, to object to the fairness, reasonableness, or adequacy  
2 of the Settlement.

3 16. All reasonable expenses incurred in identifying and notifying Class Members, as well  
4 as administering the Settlement, shall be paid in accordance with the terms set forth in the  
5 Agreement.

6 17. The Court preliminarily approves Section 14.01 of the Settlement Agreement in  
7 which SANDAG is released from any and all claims that any Settlement Class Member could assert  
8 arising out of or in any way related to the transmission, collection, or use of the Settlement Class  
9 Member Information pursuant to the Settlement Agreement to administer the Settlement.

10 18. The Court shall hold a Final Approval Hearing on \_\_\_\_\_ at  
11 \_\_\_\_\_, to determine the overall fairness of the settlement, consider any objections, and  
12 determine whether to award the requested Class Counsel's attorneys' fees, expenses and costs, Class  
13 Administration costs and Class Representative service award. The Final Approval Hearing may be  
14 continued without further notice to Settlement Class Members. Class Counsel shall file their motions  
15 for final approval of the settlement and for approval of attorneys' fees, costs, expenses, and Class  
16 Representative service award at least 16 court days before the hearing.

17 19. Neither the Agreement or any of its terms or provisions, nor any of the negotiations  
18 or proceedings connected with the Settlement, whether or not consummated, shall be construed as  
19 an admission or concession of any kind by any of the Parties. Neither the Agreement or any of its  
20 terms or provisions, nor any of the negotiations or proceedings connected with the Settlement, may  
21 be offered against any of the Parties as evidence of, or construed as or deemed to be evidence of,  
22 any presumption, concession or admission by any of the Parties regarding any issue whatsoever  
23 including: (i) whether it was appropriate for class certification; (ii) the validity of any allegation or  
24 claim that was, could have been or will be asserted against Defendant; (iii) liability, negligence,  
25 fault, or wrongdoing of any kind; and (iv) the existence or scope of any damages.

26 20. The Court retains exclusive and continuing jurisdiction over the Parties and the Class  
27 Members to consider all further motions and applications arising out of, or connected with, the  
28 Agreement or related Settlement matters. The Court may approve the Settlement with such

1 modifications as may be agreed to by the Parties, if appropriate, without further notice to the  
2 Settlement Class. The Court shall also retain jurisdiction with respect to the implementation and  
3 enforcement of the terms of the Agreement, and all Parties hereto submit to the jurisdiction of the  
4 Court for purposes of implementing and enforcing the Settlement embodied in the Agreement.

5 21. All Class Members shall be bound by all determinations and judgments of the Court  
6 in the Action concerning the Settlement and related matters, whether favorable or unfavorable to the  
7 Settlement Class.

8 22. All proceedings in this action shall be stayed until further order of the Court, except  
9 for proceedings that may be necessary to implement this Preliminary Approval Order, the  
10 Agreement, its Exhibits, or to comply with or effectuate the terms and conditions of the Agreement.

11 23. Pending final determination of whether the proposed Settlement should be approved,  
12 neither Plaintiff nor any Class Member, directly or indirectly, representatively, or in any other  
13 capacity, shall commence or prosecute against Defendant, any action or proceeding in any court or  
14 tribunal asserting any of the Released Claims.

15 24. Counsel for the Parties are hereby authorized to utilize all reasonable procedures in  
16 connection with the administration of the Settlement that are not materially inconsistent with either  
17 this Order or the terms of the Settlement Agreement.

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20 **IT IS SO ORDERED:**

21 Dated: Sept 27, 2021

  
The Honorable Eddie C. Sturgeon  
Judge of the Superior Court

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