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7 [additional parties continued on next page]

8 **SUPERIOR COURT OF CALIFORNIA**

9 **FOR THE COUNTY OF SACRAMENTO**

10  
11 CARLETON EDWARDS, MICHAEL  
ADAMS, and PETER HALL, individually and  
12 on behalf of all other similarly situated  
employees,

13  
14 Plaintiffs,

15 vs.

16 SUBURBAN PROPANE, L.P., a Delaware  
17 Limited Partnership; and DOES 1 to 100,  
inclusive,

18  
19 Defendants.

**Case No. 34-2022-00314949-CU-OE-GDS**

*Assigned for All Purposes to Hon. Jill Talley,  
Department 27*

**CLASS ACTION**

**[PROPOSED] ORDER GRANTING  
PLAINTIFFS' MOTION FOR  
PRELIMINARY APPROVAL OF CLASS  
ACTION AND PAGA SETTLEMENT**

Reservation No. 2720117

Date: June 30, 2023

Time: 9:00 a.m.

Dept.: 27

Judge: Hon. Jill Talley

**BY FAX**

Filed: February 2, 2022

FAC Filed: June 6, 2022

SAC Filed: March 10, 2023

Trial Date: None Set

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[PPSD] ORDER GRANTING PRELIMINARY APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT



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1 TO ALL PARTIES AND THEIR RESPECTIVE COUNSEL OF RECORD:

2 The Motion for Preliminary Approval of Class Action and PAGA Settlement ("Motion") in the  
3 above referenced case came before this Court, on June 30, 2023, at 9:00 a.m., in Department 27 before  
4 the Honorable Jill Talley, presiding. Named Plaintiffs Carleton Edwards, Michael Adams, and Peter  
5 Hall ("Plaintiffs") have filed a Second Amended Complaint in this case that consolidates four lawsuits  
6 into single proceeding in order to allow a single, streamlined review by the Court of the fairness and  
7 adequacy of a global class action and Private Attorneys General Act ("PAGA") settlement in a single  
8 proceeding. The four lawsuits include the following: (1) *Edwards, et al. v. Suburban Propane, L.P.*,  
9 Sacramento County Superior Court, Case No. 34-2022-00314949 ("*Edwards Action*"); (2) *Hall v.*  
10 *Suburban Propane, L.P., et al.*, Los Angeles County Superior Court, Case No. 22STCV00670 ("*Hall*  
11 *Class Action*"); (3) *Hall v. Suburban Propane, L.P., et al.*, Los Angeles County Superior Court, Case  
12 No. 22AVCV00103 ("*Hall PAGA Action*"); and (4) *Adams v. Suburban Propane, L.P., et al.*,  
13 Sacramento County Superior Court, Case No. 34-2022-00316279 ("*Adams Action*"). Plaintiffs allege  
14 that Defendants Suburban Propane, L.P. and Suburban Sales & Service, Inc. ("Defendants") violated  
15 California law by 1) failing to pay overtime wages, 2) failing to pay minimum wages, 3) failing to  
16 provide meal periods, 4) failing to provide rest periods, 5) failing to provide accurate wage statements,  
17 6) failing to timely pay all final wages, 7) failing to reimburse employees for incurred expenses, and 8)  
18 by engaging in unfair competition. Plaintiffs have also alleged Defendants is liable for civil penalties  
19 under the PAGA based on these violations. Plaintiffs sought attorneys' fees and costs as part of this  
20 Action. Defendants denied all of Plaintiffs' claims and denied that this case was appropriate for class  
21 treatment. No class has been certified.

22 The parties have agreed to settle the class and PAGA claims. Defendants will provide  
23 monetary consideration in exchange for a release of claims consistent with the terms of the proposed  
24 settlement as set forth in the Joint Stipulation Regarding Class Action and PAGA Settlement and  
25 Release ("Agreement" or "Settlement"). Any capitalized terms herein shall have the same meaning as  
26 set forth in the Agreement. The Court, having received and considered Plaintiffs' Motion for  
27 Preliminary Approval of Class Action and PAGA Settlement, the declarations in support, the  
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1 Agreement, the proposed Notice of Settlement, and other evidence, HEREBY ORDERS AND  
2 MAKES DETERMINATIONS AS FOLLOWS:

3 **I. PRELIMINARILY CERTIFYING A SETTLEMENT CLASS; APPOINTMENT OF**  
4 **CLASS REPRESENTATIVES; APPOINTMENT OF CLASS COUNSEL**

5 The Court finds that certification of the following subclasses for settlement purposes only is  
6 appropriate under the California Code of Civil Procedure and related case law:

- 7 • Reimbursement Subclass: All employees who are class members in the  
8 Fernandez Action and worked for Defendants in California during the  
Reimbursement Subclass Period, *i.e.* January 7, 2018, to March 24, 2021; and
- 9 • Wage Subclass: All employees who are class members in the Fernandez Action  
10 and who worked for Defendants in California between March 25, 2021, and  
11 February 12, 2023, and all other non-exempt employees (*i.e.* employees who  
12 were not part of the release of claims in the Fernandez Action) who worked for  
13 Defendants in California during the time period of Wage Subclass Period, *i.e.*  
March 25, 2021, to February 12, 2023, for employees who are class members  
in the Fernandez Action, and January 7, 2018, through February 12, 2023, for  
all other individuals within the Wage Subclass.

14 Individuals within foregoing subclasses are collectively referred to as Class Members. The  
15 Court recognizes that the foregoing definitions are for identification purposes only and are not intended  
16 to capture the claims at issue or limit or alter the released claims under the Agreement.

17 The Court finds that Class Members meet the ascertainability and numerosity requirements since  
18 the parties can identify with a matter of certainty, based on payroll records, individuals who fall within  
19 the definitions and the number of Class Members would make joinder impractical. The commonality  
20 and predominance requirements are met for settlement purposes since there are questions of law and fact  
21 common to Class Members. The common questions of law or fact in this case all stem from Plaintiffs'  
22 contentions that Defendants caused the violations outlined above by 1) failing to pay for all hours  
23 worked, including minimum and overtime wages for time spent completing paperwork, temperature  
24 checks and COVID-19 screenings, time clocked out during on-duty meal periods, and donning/doffing  
25 personal protective equipment, 2) failing to properly calculate the regular rate of pay for premium wage  
26 payments such as overtime, meal and rest period premiums, and sick leave wages, 3) failing to provide  
27 meal and rest periods due to on-duty break requirements and the prohibition on leaving work premises,  
28 4) engaging in unlawful rounding of hours worked, 5) failing to reimburse employees for the use of their

1 personal cell phones to communicate with supervisory employees and record their hours worked, 6)  
2 failing to pay all wages owed in a timely manner, including final wages, and 7) failing to issue accurate  
3 itemized wage statements. The PAGA and unfair competition claims also derive from these violations.  
4 Additionally, Class Members seek the same remedies under state law for these wage and hour claims.  
5 The typicality requirement for settlement purposes is also satisfied since the wage and hour claims of the  
6 Class Representatives are based on the same facts and legal theories as those applicable to the Class  
7 Members.

8 The Court also finds that preliminarily and conditionally certifying the settlement classes is  
9 required to avoid each Class Member from litigating similar claims individually. This Settlement will  
10 achieve economies of scale for Class Members with relatively small individual claims and conserve the  
11 resources of the judicial system.

12 The Court finds that Plaintiffs Carleton Edwards, Michael Adams, and Peter Hall, and Plaintiffs'  
13 counsel, Galen T. Shimoda, Justin P. Rodriguez, Renald Konini of Shimoda & Rodriguez Law, PC,  
14 Mark D. Potter and James M. Treglio of Potter Handy LLP, and Norman B. Blumenthal, Kyle R.  
15 Nordrehaug, Aparajit Bhowmik, and Nicholas J. De Blouw of Blumenthal Nordrehaug Bhowmik  
16 DeBlouw, LLP, to be adequate representatives of the settlement class. The Court appoints them as Class  
17 Representatives and Class Counsel, respectively.

## 18 **II. PRELIMINARILY APPROVING CLASS ACTION AND PAGA SETTLEMENT**

19 The Court has reviewed the Agreement, which was submitted with Plaintiffs' Motion as Exhibit  
20 A. The Court finds, on a preliminary and conditional basis, that the Settlement is fair, reasonable, and  
21 adequate and falls within the range of reasonableness of a settlement that could ultimately be given final  
22 approval by this Court. The Court finds the Settlement was agreed upon only after extensive  
23 investigation, litigation, and arms-length negotiations by counsel experienced in complex litigation, who  
24 took reasonable steps and measures to weigh the potential value of the disputed claims against the risks  
25 of continued litigation. The Court also acknowledges that Class Members may present any objections to  
26 the Settlement at a fairness hearing approved by this Court or opt-out of being bound by the  
27 preliminarily approved Agreement. The Court preliminarily approves the Agreement and all terms  
28 therein as if stated here in full, including the \$945,000 Gross Settlement Amount.

1       The Court approves of ILYM Group, Inc., acting as the Settlement Administrator in this case and  
2 hereby appoints them to fulfill those duties as outlined in the Agreement.

3       The Court finds that an award of fees under the common fund doctrine may be appropriate in this  
4 case because there is a sufficiently identifiable class of beneficiaries (*i.e.* Class Members), the benefits  
5 that Plaintiffs and Class Counsel were able to negotiate on behalf of Class Members can be accurately  
6 traced as set forth in the Agreement, and the fee can be shifted with exactitude to those benefiting as the  
7 fee request is a specific, lump-sum percentage of the Gross Settlement Amount. *See Laffitte v. Robert*  
8 *Half Internat., Inc.*, 1 Cal.5th 480, 506 (2016); *Paul, Johnson, Alston & Hunt v. Gaulty*, 886 F.2d 268,  
9 271 (9th Cir. 1989); *Boeing Co. v. Van Gemert*, 444 U.S. 472, 477-478 (1980) (“A lawyer who recovers  
10 a common fund for the benefit of persons other than . . . her client is entitled to a reasonable attorney’s  
11 fee from the fund as a whole.”). The amounts allocated under the Agreement for attorney’s fees and  
12 costs, for an Enhancement Payment to the Class Representatives, and Settlement Administrator Costs  
13 shall be included in the Notice of Settlement to enable Class Members to review and comment thereon.  
14 The Court will consider the reaction of Class Members when evaluating the reasonableness of the  
15 requested amounts at final approval. *See In re Heritage Bond Litig.*, 2005 U.S. Dist. LEXIS 13555, 71  
16 (C.D. Cal. 2005) (“the absence of objections or disapproval by class members to class counsel’s fee  
17 request further supports finding the fee request reasonable”). Plaintiffs and Class Counsel are directed  
18 to provide information in connection with the motion for final approval that will enable the Court to  
19 assess the appropriateness of any requested fee percentage, to perform a lodestar cross check of the  
20 requested fee percentage, and to quantify the amount of time spent by Plaintiffs on this case and any  
21 further risks and/or burdens incurred as a result of acting as Class Representatives. Class Counsel is also  
22 directed to provide an itemization regarding actual litigation costs incurred. The Settlement  
23 Administrator shall also submit a declaration attesting to Settlement Administrator Costs incurred. The  
24 Court will review these amounts and allocations in connection with the final approval hearing. To the  
25 extent the Court ultimately awards less than the amounts allocated under the Agreement for attorney’s  
26 fees and costs, for an Enhancement Payment to the Class Representatives, and/or Settlement  
27 Administrator Costs, the difference between the amounts awarded and the amounts requested shall be  
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1 added to the Net Settlement Amount for distribution to Participating Class Members pro rata as set forth  
2 in the Agreement.

3 The Court approves of the Twenty Thousand (\$20,000) PAGA Payment, which shall be paid  
4 from the Gross Settlement Amount, not in addition to the Gross Settlement Amount, to resolve the  
5 alleged PAGA claims. Seventy-Five percent (75%) of the PAGA Payment will be paid to the Labor and  
6 Workforce Development Agency ("LWDA") and Twenty-Five percent (25%) will be paid to Aggrieved  
7 Employees on a pro rata basis as described in the Agreement. The Court also finds that the Agreement  
8 provides a recovery that creates an effective, substantial deterrent to any potential future non-  
9 compliance, furthering the purpose of the Labor Code and LWDA.

10 The Court approves of the identified *cy pres* beneficiaries and distribution plan wherein any  
11 checks issued to Participating Class Members and/or Aggrieved Employees that are not cashed by the  
12 deadline to do so shall be donated equally, *i.e.* 50/50, to Capital Pro Bono, Inc., and the Center for  
13 Workers' Rights. *See In re Microsoft I-V Cases*, 135 Cal.App.4th 706, 718 (2006). No portion of the  
14 Gross Settlement Amount will revert to Defendants for any reason.

15 The releases and waivers for Class Members who do not opt out of being bound by the  
16 Agreement (*i.e.* Participating Class Members), Aggrieved Employees, and the Class Representatives are  
17 also approved by the Court as set forth in the Agreement.

18 **III. APPROVAL OF THE DISTRIBUTION METHOD OF NOTICE TO THE CLASS,**  
19 **INCLUDING THE NOTICE OF SETTLEMENT**

20 The Court finds that the proposed Notice of Settlement, which was submitted with Plaintiffs'  
21 Motion as Exhibit E, fairly and adequately advises Class Members of the terms of the Agreement, the  
22 rights being waived, their right to opt out, the ability to dispute the number of workweeks worked during  
23 the Class Period, their pro rata share of the Net Settlement Amount, how to participate in the settlement,  
24 how to file documentation in opposition to the proposed settlement, and when to appear at the fairness  
25 hearing to be conducted on the date set forth below. The Court further finds that the Notice of  
26 Settlement and proposed distribution of such notice by first class mail to each identified Class Member  
27 at his or her most recent address based on a National Change of Address database search from the Class  
28 Members' last known address and a skip trace on any Class Members who have the Notice of Settlement

1 returned as “undeliverable” or “not at this address” comports with all constitutional requirements,  
2 including those of due process.

3 The Court also finds that because there is a strong interest in providing Class Members the  
4 opportunity to participate in the settlement, along with the Parties’ efforts to minimize any intrusion to  
5 privacy rights, the sharing of employment information, including social security numbers, is not a  
6 serious intrusion on their privacy rights. Hence, the Court orders Defendants to provide first and last  
7 name, last known mailing address, social security number, and hire and termination dates, total number  
8 of workweeks during which the Class Member performed any actual work to the Settlement  
9 Administrator only, and not to Plaintiffs or Class Counsel, in order to process this settlement as  
10 contemplated within the Agreement and approved by this Order. The Settlement Administrator shall  
11 only use this information for the purposes identified in the Agreement and shall keep this information  
12 confidential consistent with the terms of the Agreement.

#### 13 **IV. IMPLEMENTATION SCHEDULE**

14 Accordingly, with good cause shown, the Court hereby approves and orders that the following  
15 implementation schedule be adhered to:

16 Last day for Defendants to provide Settlement 17 Administrator with Class Member and Aggrieved 18 Employee information	Within 14 calendar days after the Preliminary Approval Date
19 Last day for Settlement Administrator to 20 complete NCOA search, update Class Member 21 and Aggrieved Employee mailing information, and mail Notice of Settlement	Within 21 calendar days after the Settlement Administrators’ receipt of Class Members’ information from Defendants
22 Last day for Class Members to opt-out, submit 23 disputes, submit objections, and submit data 24 requests	60 calendar days after mailing of Notice of Settlement or within 10 days after Notice of Settlement is re-mailed, whichever is later
25 Last day for Settlement Administrator to provide 26 Parties with signed declaration reporting on settlement administration statistics	Within 14 calendar days after end of the Notice Period

1 2 3 4 5	Last day for Settlement Administrator to calculate the final Net Settlement Amount, the final Individual Settlement Amounts for Participating Class Members and/or Aggrieved Employees, any applicable taxes thereon, and report the results of these calculations to Class Counsel and Defendants' Counsel	Within 7 calendar days after the Effective Date
6 7	Last day for Defendants to fund settlement	Within 21 calendar days after the Effective Date
8 9 10 11	Last day for Settlement Administrator to deliver payment of Class Counsel's attorney's fees and costs, Enhancement Payments, PAGA Payment, Settlement Administrator Costs, payment to Participating Class Members, and payment to Aggrieved Employees	Within 7 calendar days after Defendants have funded the settlement
12 13 14	Last day for Participating Class Members and Aggrieved Employees to cash settlement checks	180 calendar days after issuance of checks to Participating Class Members and Aggrieved Employees
15 16 17	Last day for Settlement Administrator to deliver value of uncashed settlement checks to <i>cy pres</i> beneficiaries	Within 14 calendar days after settlement check cashing deadline
18 19	Last day for Settlement Administrator to provide Parties with compliance declaration	Within 21 calendar days after settlement check cashing deadline

#### FINAL APPROVAL AND HEARING

The Court hereby grants Plaintiffs' Motion and sets final approval hearing on the proposed date of November 17, 2023, at 9:00 a.m., with briefs and supporting documentation to be submitted according to the California Code of Civil Procedure, in this Department. Participating Class Members who object in a timely manner as set forth in the Agreement, may appear and present such objections at the fairness hearing in person or by counsel.

If for any reason the Court does not grant final approval of the Agreement, all evidence and proceedings held in connection therewith shall be without prejudice to the status quo and rights of the parties to the litigation, including all challenges to personal jurisdiction and to class certification for any

1 purpose other than approving a settlement class. The parties will revert to their respective positions as if  
2 no settlement had been reached at all.

3 **IT IS SO ORDERED.**

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5 Date: \_\_\_\_\_

By: \_\_\_\_\_

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Hon. Jill Talley  
Judge of the Superior Court

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