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FILED
ALAMEDA COUNTY

JUL 22 2020

CLERK OF THE SUPERIOR COURT
By *[Signature]* Deputy

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Attorneys for Plaintiff Marcus A. Vaughn,
individually, and on behalf of others similarly
situated, and as an aggrieved employee under the
Labor Code Private Attorneys General Act of 2004

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ALAMEDA**

MARCUS A. VAUGHN, an individual and on
behalf of others similarly situated, and as an
aggrieved employee under the Labor Code
Private Attorneys General Act of 2004,

Plaintiff,

vs.

APTIVE ENVIRONMENTAL, LLC; and DOES
1 through 25, inclusive,

Defendants

CASE NO. RG19002062

CLASS ACTION

[Assigned for all purposes to the Hon.
Winifred Y. Smith]

**[PROPOSED] ORDER GRANTING
PLAINTIFF'S MOTION FOR FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT AND FINAL JUDGMENT**

Date: July 17, 2020

Time: 11:00 a.m.

Dept.: 21

Action Filed: January 10, 2019

Trial Date: None Set

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1 On January 31, 2020, the Court issued an order granting preliminary approval of the proposed class
2 action Settlement between Plaintiff Marcus A. Vaughn ("Plaintiff"), individually and on behalf of all others
3 similarly situated and as an aggrieved employee, and Defendant Aptive Environmental, LLC
4 ("Defendant"). On July 17, 2020, the Court held a fairness and good-faith determination hearing. Due and
5 adequate notice having been given to the Class, as defined below, and the Court, having carefully
6 considered Plaintiff's Unopposed Motion for Final Approval of Class and Representative Action
7 Settlement (the "Motion"), the supporting declarations and exhibits thereto, and all submissions and other
8 documents filed in this action, and good cause appearing, hereby GRANTS the Motion.

9 IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

10 1. The Court adopts all defined terms as set forth in the Stipulation of Class and Representative
11 Action Settlement ("Stipulation") filed in this action. A copy of the Stipulation is attached as Exhibit 1 to
12 the Declaration of Matthew J. Matern in support of the Motion and is made a part of this Order and Final
13 Judgment.

14 2. The Court has jurisdiction over all claims asserted in this action, Plaintiff, the Settlement
15 Class Members, and Defendant.

16 3. The Court finds that the Settlement was made and entered into in good faith and hereby
17 approves the Settlement as fair, adequate, and reasonable to all Settlement Class Members.

18 4. Solely for purposes of effectuating this Settlement, this Court has certified a class defined
19 as "all persons currently and formerly employed by Aptive as non-exempt employees in the State of
20 California between January 10, 2015 and the date of preliminary approval of the settlement, or October 12,
21 2019, whichever comes first." The "Class Period" is defined as the period from January 10, 2015 through
22 October 12, 2019 ("the earlier of: (i) October 12, 2019 or (ii) the date of Preliminary Approval of the Class
23 and PAGA Representative Action Settlement").

24 5. The Notice provided to the Settlement Class conforms with the requirements of California
25 Code of Civil Procedure section 382, California Civil Code section 1781, California Rules of Court 3.766
26 and 3.769, the California and United States Constitutions, and any other applicable law and constitutes the
27 best notice practicable under the circumstances, by providing individual notice to all persons in the
28 Settlement Class who could be identified through reasonable effort and by providing due and adequate

1 notice of the proceedings and of the matters set forth therein to all other persons in the Settlement Class.
2 The Class Notice informed the Class Members of the Settlement terms, the existence of their rights to
3 submit a Request for Exclusion, their rights to comment on or object to the Settlement, and their rights to
4 appear at the Final Approval Hearing and be heard regarding approval of the Settlement. Adequate periods
5 of time to respond and to act were provided by each of these procedures. The Notice therefore fully
6 satisfied the requirements of due process.

7 6. The Court finds that no (0) Class Members have submitted valid requests for exclusions
8 from the Settlement.

9 7. The Court finds that no (0) Class Members have objected to the Settlement.

10 8. The Court finds that the Common Fund, the Net Common Fund, and the methodology used
11 to calculate and pay each Settlement Class Member's Individual Settlement Payment are fair, adequate,
12 and reasonable and authorizes the Claims Administrator to pay the Individual Settlement Payments to the
13 865 Settlement Class Members in accordance with the terms of the Settlement.

14 9. Pursuant to Paragraph 38 of the Settlement, the following release applies to all Settlement
15 Class Members:

16 Upon entry of final judgment in the Action, all Settlement Class Members shall fully release and
17 discharge Aptive, as well as its parent companies, subsidiaries, affiliates, shareholders, officers, directors,
18 employees, attorneys, insurers, successors, and assigns ("Releasees"), from any and all claims, debts,
19 liabilities, demands, obligations, guarantees, costs, expenses, attorneys' fees and costs, damages, penalties,
20 prejudgment interest, actions, or causes of action of whatever kind or nature, whether known or unknown,
21 that he or she has ever had, or hereafter may claim to have, arising on or before the date of entry of the
22 final judgment in the Action, including, without limitation, from any and all claims, demands, liabilities,
23 causes of action of whatever kind or nature, debts, obligations, wages, penalties (including penalties under
24 the California Labor Code's Private Attorneys General Act of 2004, as amended in August 2004, California
25 Labor Code sections 2698, 2699.3, and 2699.5), damages, interest, expenses, attorneys' fees, costs,
26 restitution and equitable relief arising out of the claims alleged in the original complaint or FAC, or which
27 could have been alleged or asserted based on the facts alleged in the original complaint or FAC, including
28 any and all claims for: (1) failure to provide meal periods; (2) failure to provide rest periods; (3) failure to

1 pay overtime wages; (4) failure to pay minimum wages; (5) failure to furnish accurate itemized statements;
2 (6) waiting time penalties; (7) expense reimbursement; (8) unfair and unlawful business practices under
3 California Business and Professions Code §§ 17200, *et seq.*, and (9) recovery of penalties under PAGA
4 (collectively, the "Released Claims"). The Released Claims include, but are not limited to, claims meeting
5 the above definition under any and all applicable California or federal laws, statutes, regulations, and Wage
6 Orders.

7 10. Pursuant to Paragraph 39 of the Settlement, the following release applies to Plaintiff only:

8 Upon entry of final judgment in the Action, Plaintiff agrees to release all claims known or unknown,
9 accrued or unaccrued, that he has or may have against Aptive, including execution of a California Civil
10 Code section 1542 release and waiver. In consideration of the monetary sum provided to him by Aptive,
11 and subject to Court approval, Plaintiff fully releases and forever discharges the Releasees from any and
12 all actions, causes of action, claims, charges, complaints, liabilities, obligations, promises, agreements,
13 controversies, damages, actions, suits, rights, demands, liens, costs, losses, debts, penalties, fines, wages,
14 liquidated damages, restitutionary amounts, attorneys' fees and costs, interest, punitive damages and
15 expenses (including, without limitation, back wages, penalties, liquidated damages, and attorneys' fees and
16 costs actually incurred) or liabilities of whatever kind or nature, whether known or unknown, which
17 Plaintiff has ever had, or hereafter may claim to have, arising on or before the date that he signs this
18 Agreement, including, without limitation, any claims for alleged violations of any contracts, express or
19 implied (including but not limited to any contract of employment); any contract or covenant of good faith
20 or fair dealing (express or implied); any tort, including, without limitation, negligence, fraud,
21 misrepresentation under California Labor Code § 970, negligent infliction of emotional distress, intentional
22 infliction of emotional distress, slander and defamation; wrongful or constructive termination; any
23 "retaliation" claims; any claims relating to any breach of public policy; any legal restrictions on Aptive's
24 right to discharge employees or refuse to hire applicants; and any federal, state, or other governmental
25 statute, regulation, order or ordinance, including, without limitation: (1) Title VII of the Civil Rights Act
26 of 1964 (race, color, religion, sex, and national origin discrimination or harassment, including retaliation
27 for reporting discrimination or harassment); (2) 42 U.S.C. § 1981 (discrimination); (3) sections 503 and
28 504 of the Rehabilitation Act of 1973 (handicap discrimination); (4) Equal Pay Act, 29 U.S.C. § 206(d)

1 (equal pay); (5) Americans with Disabilities Act, 42 U.S.C. § 12100 et seq. (disability discrimination); (6)
2 Family and Medical Leave Act, 29 U.S.C. § 2601 et seq. (family/medical leave); (7) California Fair
3 Employment and Housing Act, Cal. Gov't Code § 12900 et seq. (discrimination or harassment in
4 employment and/or housing, including discrimination or harassment based on race, religious creed, color,
5 national origin, ancestry, disability, marital status, sex (including pregnancy), sexual orientation, or age,
6 including, without limitation, retaliation for reporting discrimination or harassment); (8) California Family
7 Rights Act, Cal. Gov't Code § 12945.1 et seq. (family/medical leave); (9) California Labor Code, including
8 but not limited to California Labor Code § 2698 et seq. (PAGA), or any Industrial Welfare Commission
9 Wage Order; (10) the Fair Labor Standards Act, 29 U.S.C. § 201 et seq.; (11) Executive Order 11246 (race,
10 color, religion, sex, and national origin discrimination or harassment); (12) Executive Order 11141 (age
11 discrimination); (13) California Business and Professions Code Section 17200, et. seq., and (14) Employee
12 Retirement Income Security Act, 29 U.S.C. § 1000 et seq. (employee benefits) (collectively, the "Plaintiff's
13 Individual Released Claims").

14 11. The Parties shall bear their own respective attorneys' fees and costs, except as to the
15 attorneys' fees and costs to Class Counsel awarded below in Paragraph 15 and as otherwise provided for
16 in the Settlement and approved by the Court.

17 12. Upon entry of this Order, compensation to the Settlement Class Members shall be effected
18 pursuant to the terms of the Settlement.

19 13. A total of \$20,000.00 from the Common Fund shall be allocated to penalties under the Labor
20 Code Private Attorneys General Act of 2004, California Labor Code section 2698, *et seq.*, of which
21 \$15,000.00 shall be paid by the Claims Administrator directly to the California Labor and Workforce
22 Development Agency. The remaining \$5,000.00 shall be part of the Net Common Fund and shall be
23 distributed to Settlement Class Members as part of their Individual Settlement Payments.

24 14. The Court hereby approves the payment of \$5,000.00 to Plaintiff as Service Award for his
25 services as Class Representative. The Court finds that this amount is fair and reasonable in light of
26 Plaintiff's contributions to this litigation, the risks he undertook in being named Plaintiff and for executing
27 a general release of his claims against Defendant. The payment of the Service Award shall be made in
28 accordance with the terms of the Settlement.

\$ 162,000

1 15. From the Common Fund, Class Counsel is awarded ~~\$180,000.00~~ for their reasonable
2 attorneys' fees and 15,864.71 for their actual costs incurred in this action. The Court finds that the amount
3 of attorneys' fees requested are reasonable in light of the relevant factors and that Class Counsel's costs
4 are also reasonable. The payment of fees and costs to Class Counsel shall be made in accordance with the
5 terms of the Settlement.

6 16. The Court approves Claims Administration Expenses in the amount of \$16,500.00. Such
7 costs shall be paid from the Common Fund.

8 17. Defendant's employer payroll taxes shall not be paid from the Common Fund.

9 18. Nothing in the Settlement or this Order purports to extinguish or waive Defendant's rights
10 to continue to oppose the merits of the claims in this action or class treatment of these claims in this case
11 if the Settlement fails for any reason whatsoever to become final or effective. Neither this Final Approval
12 Order, the final judgment, the Settlement, nor any document referred to herein, nor any action taken to
13 carry out the Settlement, is, may be construed as, or may be used as an admission by or against Defendant
14 or any of the Releasees of any fault, wrongdoing, or liability whatsoever. The entering into or carrying out
15 of the Settlement, and any negotiations or proceedings related thereto, shall not in any event be construed
16 as, or deemed to be evidence of, an admission or concession with regard to the denials or defenses by
17 Defendant or any of the other Releasees and shall not be offered in evidence in any action or proceeding
18 against Defendant or any of the other Releasees in any court, administrative agency, or other tribunal of
19 any kind for any purpose whatsoever, other than to enforce the provisions of this Final Approval Order,
20 the final judgment, the Settlement, or any related agreement or release. Notwithstanding these restrictions,
21 any of the Releasees may file in any court action or in any other proceeding of any kind this Final Approval
22 Order, the final judgment, the Settlement, or any other papers and records on file in the above-captioned
23 action as evidence of the Settlement to support a defense of *res judicata*, collateral estoppel, release, or
24 other theory of claim or issue preclusion or similar defense as to the Released Claims.

25 19. All Settlement Class Members are finally and forever bound by the release of claims in
26 favor of Defendant and the other Releasees as set forth in the Settlement and are permanently barred from
27 prosecuting against Defendant and the other Releasees any and all Released Claims, as defined in the
28 Stipulation.

1 20. Plaintiff is finally and forever bound by the release of claims in favor of Defendant and the
2 other Releasees as set forth in the Settlement and this Order, and is permanently barred from prosecuting
3 against Defendant and the other Releasees any and all of the "Plaintiff's Individual Released Claims," as
4 defined in the Stipulation.

5 21. In accordance with the terms of the Stipulation, Defendant shall fund the Settlement with
6 the Common Fund amount of \$540,000.00 within thirty (30) days of the Effective Date. As defined in the
7 Settlement, the Effective Date is the date on which final judgment is entered, if no appeal is filed. If an
8 appeal is filed, the Effective Date shall be the date the judgment is final and no longer subject to appeal.
9 Upon receipt of the Common Fund, the Settlement Administrator is directed to mail out the checks to the
10 Settlement Class Members in accordance with the Settlement and its terms, and to make all of the other
11 payments to Class Counsel, the Class Representative, and the LWDA, as required by the Settlement and
12 this Order.

13 22. Notice of entry of this Order and Final Judgment shall be given to Class Counsel on behalf
14 of Plaintiff and all Settlement Class Members. It shall not be necessary to send Notice of Entry of this
15 Order and Final Judgment to individual Settlement Class Members. The time for any appeal shall run from
16 the Court's entry of this Order and Final Judgment.

17 23. The Claims Administrator will post notice of the Court's Order and Final Judgment on its
18 website within seven (7) days after entry of this Order.

19 24. The Court shall retain jurisdiction with respect to the interpretation,
20 Implementation, and enforcement of the terms of the Settlement, and all orders and judgments entered in
21 connection therewith.

22 25. If the Settlement does not become final and effective in accordance with the terms of
23 Stipulation, then this Order and Final Judgment, and all orders entered in connection herewith, shall be
24 rendered null and void and shall be vacated.

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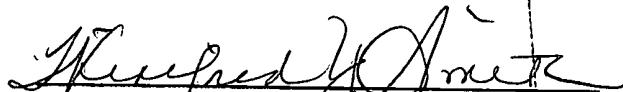
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1 26. The Court directs that judgment be entered in accordance with the terms of this Order.

2 **IT IS SO ORDERED.**

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4 Dated: July 22, 2020

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7 HON. WINIFRED Y. SMITH
8 Judge of the Superior Court

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