

FILED

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

FEB 22 2019

DAVID H. YAMASAKI, Clerk of the Court

BY: _____, DEPUTY

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and the Class*

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE - CIVIL COMPLEX CENTER

ANTHONY IBRAHIM, JARED LEE on behalf
of themselves and all others similarly situated,

Plaintiffs,

vs.

CLIMATEC, INC. KX2 HOLDINGS
BUILDING TECHNOLOGIES GROUP, L.P,
and DOES 1 through 50, INCLUSIVE,

Defendants.

No. 30-2012-00552570-CU-OE-CXC

Unlimited Civil Case
The Amount Demanded Exceeds \$25,000

[Assigned to Honorable William D. Claster,
Dept. CX-104 [Unlimited Jurisdiction]

[Reservation No. 72844623]

~~[PROPOSED]~~ ORDER GRANTING FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT AND ENTERING
JUDGMENT

DATE: February 22, 2019
TIME: 9:00 a.m.
DEPT: CX-104

1 This matter came on for hearing on February 22, 2019 at 9:00 a.m., in Department CX104 of
2 the above-captioned Court on Plaintiffs' unopposed Motion for Final Approval of Class Action
3 Settlement, et al, and Motion For Order Approving Award of Attorneys Fees and Costs, et al
4 (collectively, "Motion for Final Approval") pursuant to California Rule of Court 3.769, this Court's
5 Order Granting Preliminary Approval filed October 16, 2018, and Joint Stipulation of Class Action
6 Settlement and Release ("Settlement" or "Settlement Agreement"), a copy of which was filed in
7 conjunction with Plaintiffs' Motion for Preliminary Approval of Class Action Settlement.

8 Having received and considered the Settlement Agreement, the supporting papers filed by the
9 Parties, and the evidence and argument received by the Court in conjunction with the unopposed Motion
10 for Preliminary Approval of Class Action Settlement heard September 21, 2018, and the instant Motion
11 for Final Approval, the Court grants the Motion for Final Approval and final approval of the Settlement
12 and **HEREBY ORDERS AND MAKES THE FOLLOWING DETERMINATIONS:**

- 13 1. Pursuant to the Order Granting Preliminary Approval, a Notice of Class Action
14 Settlement was sent to each Travel Class Member and Meal Period Class Member (collectively,
15 "Class Member") by first-class mail. These papers informed the Class Members of the terms of the
16 Settlement, their right to receive an Individual Settlement Payment, their right (a) to comment on or
17 object to the Settlement, (b) to request exclusion from the Settlement and pursue their own remedies,
18 and (c) of their right to appear in person or by counsel at the final approval hearing and to be heard
19 regarding approval of the Settlement. Adequate periods of time were provided by each of these
20 procedures. No Class Member filed written objections to the proposed Settlement as part of this notice
21 process or stated an intention to appear at the final approval hearing.
- 22 2. The Court finds and determines that the notice procedure afforded adequate protections
23 to Class Members and provides the basis for the Court to make an informed decision regarding
24 approval of the Settlement based on the responses of the Class Members. The Court finds and
25 determines that the notice provided in this case was the best notice practicable, which satisfied the
26 requirements of law and due process.

1 3. With respect to Court’s February 19, 2014 Order granting certification of the Travel
2 Time Class and the Court’s February 21, 2017 Order granting certification of the Meal Period Class, the
3 this Court found and concluded that: (a) Class Members are ascertainable and so numerous that joinder
4 of all members is impracticable; (b) there are questions of law or fact common to the Travel Time and
5 Meal Period Classes, and there is a well-defined community of interest among members of the Travel
6 Time and Meal Period Classes with respect to the subject matter of the Action; (c) the claims of Class
7 Representative and Plaintiff Anthony Ibrahim with respect to the Travel Time Class and Class
8 Representative and Plaintiff Jared Lee with respect to the Meal Period Class are typical of the claims of
9 the Class Members ; (d) the Class Representatives have fairly and adequately protected the interests of
10 the Class Members ; (e) a class action is superior to other available methods for an efficient adjudication
11 of this controversy; and (f) the counsel of record for the Class Representatives, Class Counsel, are
12 qualified to serve as counsel for Plaintiffs in their individual and representative capacities for the Class.

13 4. The Court has certified a Travel Time Class and a Meal Period Class which are defined
14 pursuant to the terms of the Settlement Agreement at paragraph 6 (“Definitions”) and paragraph 35(a),
15 which includes “all current and former non-exempt employees who were employed as System
16 Specialists by one or more Defendants or Climatec, LLC within the State of California at any time
17 during the Class Period-Travel and/or Class Period-Meal and identified in Exhibits A and B of the
18 Settlement Agreement.” Said Class Members are further identified in Exhibit A and Exhibit to this
19 Order. The Class Period-Travel means March 16, 2008 to October 16, 2018 as defined in as defined in
20 the Settlement Agreement at paragraph 10. The Class Period-Meal means April 12, 2012 to March 3,
21 2017 as defined in as defined in the Settlement Agreement at paragraph 11. The Court deems these
22 definitions sufficient for purposes of California Rule of Court 3.765(a).

23 5. The Court finds and determines that the terms set forth in the Settlement Agreement are
24 fair, reasonable, and adequate and directs the Parties to effectuate the Settlement according to its terms
25 having found that the Settlement was reached as a result of informed and non-collusive arms-length
26 negotiations facilitated by a neutral mediator. The Court further finds that the Parties conducted
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1 extensive investigation, research, and discovery and that their attorneys were able to reasonably
2 evaluate their respective positions. The Court also finds that the Settlement will enable the Parties to
3 avoid additional and potentially substantial litigation costs, as well as delay and risks if the Parties
4 were to continue to litigate the case.

5 6. The Court further finds and determines that the terms of the Settlement are fair,
6 reasonable and adequate to the Settlement Class and to each Settlement Class Member and that the
7 Settlement is ordered finally approved, and that all terms and provisions of the Settlement should be
8 and hereby are ordered to be consummated.

9 7. The Court finds and determines that the individual settlement payment to be paid to
10 Class Members as provided for by the Settlement are fair and reasonable. The Court hereby grants
11 final approval to and orders the payment of those amounts be made to the participating Class Members
12 in accordance with the Settlement Agreement.

13 8. The Court finds that no Class Member opted out of the Settlement.

14 9. The Court finds and determines that the fees and expenses in administering the
15 Settlement incurred by Heffler, Inc. ("Settlement Administrator") in the amount of \$10,000
16 are fair and reasonable. The Court hereby grants final approval to and orders that the payment of
17 that amount in accordance with the Settlement.

18 10. The Court finds and determines the Class Representative Incentive Awards in the sum

19 of \$ 12,000⁵ to Plaintiff Anthony Ibrahim and in the sum of 10,000 to Plaintiff Jared Lee are fair
20 and reasonable. The Court hereby orders the Settlement Administrator to make this payment to the
21 Plaintiffs/Class Representatives in accordance with the terms of the Settlement Agreement.

22 11. Pursuant to the terms of the Settlement, and the authorities, evidence, and argument
23 submitted by Class Counsel, the Court hereby awards Class Counsel attorneys' fees in the sum of \$

24 340,000 and litigation costs of \$ 80,764.11. The Court finds such amounts to be fair and
25 reasonable in light of the common fund created for the benefit of Class Members ~~based on the~~

The Unclaimed Property
Fund to the State
Controlled instead to the DIR's
unclaimed wage fund.

~~Gross Settlement amount of \$ 900,000, 1,019.50 attorney hours spent on this matter by Class Counsel, and the \$ 650 to \$ 700 per hour rates of Class Counsel during the course of this action.~~

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2 ANP<

12. Without affecting the finality of this order or the entry of judgment in any way, the Court retains jurisdiction of all matters relating to the interpretation, administration, implementation, effectuation, and enforcement of this order and the Settlement.

13. Nothing in this order shall preclude any action to enforce the Parties' obligations under the Settlement or under this order, including the requirement that Defendants make payments to the Class Members in accordance with the Settlement.

14. Upon completion of administration of the Settlement, Plaintiff shall submit a final report to the Court on or before **August 23, 2019** as to the actual amounts paid to class members. The Court will thereafter determine whether further reports and/or hearings will be required.

15. The Court hereby enters final judgment in accordance with the terms of the Settlement Agreement, the Order Granting Preliminary Approval of Class Action Settlement filed on October 16, 2018, and this order, **except that unclaimed checks will go to EWOC**

16. The Parties will bear their own costs and attorneys' fees except as otherwise provided by this Court's Order awarding Class Counsel's award for attorneys' fees and litigation costs.

IT IS SO ORDERED.

Date: 2-22, 2019

William D. Claster
The Honorable William D. Claster
Judge of the Superior Court

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EXHIBIT A

Travel Time Class Members

- 1) David Aydtt
- 2) Phillip Babcock
- 3) Joseph Batscha
- 4) Brendon Burrola
- 5) David Christiansen
- 6) James Chyu
- 7) Thomas Covellone, Jr.
- 8) Sandeep Dhillon
- 9) Stephen Donnellan
- 10) Victor Dorado
- 11) Nicholas Durocher
- 12) John Eschardies
- 13) David Freiman
- 14) Gregory Gaumer
- 15) Dorion Hilliard
- 16) Anthony Ibrahim
- 17) Jason Johnson
- 18) Parag Kulkarni
- 19) Jonathan Lara
- 20) Jared Lee
- 21) Timothy Loxley
- 22) Cesar Negrete
- 23) Hoang Nguyen
- 24) Huan Nguyen
- 25) Vincent Nordone
- 26) Justin Padilla
- 27) Lauren Polinsky
- 28) Christopher Pulliam
- 29) John Quach
- 30) Juan Pedro Rayos

- 31) Brian Selleck
- 32) Brian Sharrow
- 33) Erik Skoldberg
- 34) Robert Skoldberg
- 35) Jason Smith
- 36) William Stairs
- 37) Alexander Ticer
- 38) John Torres
- 39) Vincent Thuesen
- 40) Mitchell Wayte
- 41) James York

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EXHIBIT B

Meal Period Class Members

- 1) Joseph Batscha
- 2) Brendon Burrola
- 3) David Christiansen
- 4) James Chyu
- 5) Sandeep Dhillon
- 6) Nicholas Durocher
- 7) John Eschardies
- 8) David Freiman
- 9) Gregory Gaumer
- 10) Parag Kulkarni
- 11) Timothy Loxley
- 12) Cesar Negrete
- 13) Hoang Nguyen
- 14) Lauren Polinsky
- 15) Christopher Pulliam
- 16) John Quach
- 17) Brian Selleck
- 18) Stephen Donnellan
- 19) Victor Dorado
- 20) Jonathan Lara
- 21) Jared Lee
- 22) Huan Nguyen
- 23) Justin Padilla
- 24) Juan Rayos
- 25) William Stairs
- 26) Mitchell Wayte
- 27) James York