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11 Attorneys for Plaintiff Roger Westfall and Joseph M.
12 Atwell, as individuals, and on behalf of all others
13 similarly situated.

14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

15 **COUNTY OF KERN**

16 ROGER WESTFALL and JOSEPH M.
17 ATWELL, as individuals, and on behalf
18 of all others similarly situated

19 Plaintiffs,

20 vs.

21 NAES CORPORATION; and DOES 1
22 through 20, inclusive,

23 Defendants.

Case No. BCV-20-101796

*Assigned for All Purposes to
the Honorable Thomas S. Clark
Department 17*

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

Date: January 30, 2024
Time: 8:30 a.m.
Dept: 17

1 This matter came on for hearing on January 30, 2024 at 8:30 a.m., in Department 17 of
2 the above-captioned Court on the unopposed Motion for Final Approval of Class Action
3 Settlement pursuant to California Rule of Court 3.769, this Court's Order Granting Preliminary
4 Approval filed August 24, 2023 and the Joint Stipulation of Settlement ("Settlement
5 Agreement"), a copy of which was filed in conjunction with the Plaintiff's Motion for
6 Preliminary Approval of Class Action Settlement.

7 Having received and considered the Settlement Agreement, the Addendum to Settlement
8 Agreement, the supporting papers filed by the Parties, and the evidence and argument received by
9 the Court in conjunction with the unopposed Motion for Preliminary Approval of Class Action
10 Settlement heard August 24, 2023 and the instant Motion for Final Approval, the Court grants
11 final approval of the Settlement and HEREBY ORDERS AND MAKES THE FOLLOWING
12 DETERMINATIONS:

13 1. Pursuant to the Order Granting Preliminary Approval, a Notice Packet was sent to
14 each Settlement Class Member by first-class mail. These papers informed the Settlement Class
15 of the terms of the Settlement, their right to receive an Individual Settlement Payment, their right
16 (a) to comment on or object to the Settlement, (b) to request exclusion from the Settlement and
17 pursue their own remedies, and (c) of their right to appear in person or by counsel at the final
18 approval hearing and to be heard regarding approval of the Settlement. Adequate periods of time
19 were provided by each of these procedures. No member of the Class filed written objection to
20 the proposed Settlement as part of this notice process or stated an intention to appear at the final
21 approval hearing.

22 2. The Court finds and determines that this notice procedure afforded adequate
23 protections to Settlement Class Members and provides the basis for the Court to make an informed
24 decision regarding approval of the Settlement based on the responses of the Settlement Class.
25 The Court finds and determines that the notice provided in this case was the best notice
26 practicable, which satisfied the requirements of law and due process.

27 3. With respect to the Settlement Class and for purposes of approving this Settlement
28 only, this Court finds and concludes that: (a) the members of the Settlement Class are

1 ascertainable and so numerous that joinder of all members is impracticable; (b) there are questions
2 of law or fact common to the Settlement Class, and there is a well-defined community of interest
3 among members of the Settlement Class with respect to the subject matter of the Action; (c) the
4 claims of Class Representatives Roger Westfall and Joseph M. Atwell are typical of the claims of
5 the members of the Settlement Class; (d) the Class Representatives have fairly and adequately
6 protected the interests of the members of the Settlement Class; (e) a class action is superior to
7 other available methods for an efficient adjudication of this controversy; and (f) the counsel of
8 record for the Class Representatives, i.e., Class Counsel, are qualified to serve as counsel for
9 Plaintiffs in their individual and representative capacities for the Class.

10 4. The Court has certified a Settlement Class, as that term is defined in and by the
11 terms of the Settlement Agreement as all current and former non-exempt employees who are or
12 were employed by Defendant NAES Corporation in California at any time during the Class
13 Period of April 6, 2016 through August 24, 2023, and the Court deems this definition sufficient
14 for purposes of California Rule of Court 3.765(a).

15 5. The Court hereby confirms Aegis Law Firm, PC as Class Counsel.

16 6. The Court hereby confirms Plaintiffs Roger Westfall and Joseph M. Atwell as the
17 Class Representatives in this Action.

18 7. The Court finds and determines that the terms set forth in the Settlement
19 Agreement are fair, reasonable, and adequate and directs the Parties to effectuate the Settlement
20 according to its terms, having found that the Settlement was reached as a result of informed and
21 non-collusive arm's-length negotiations facilitated by a neutral mediator. The Court further finds
22 that the Parties conducted extensive investigation, research, and discovery and that their attorneys
23 were able to reasonably evaluate their respective positions. The Court also finds that the
24 Settlement will enable the Parties to avoid additional and potentially substantial litigation costs,
25 as well as delay and risks if the Parties were to continue to litigate the case. The Court has
26 reviewed the monetary recovery provided as part of the Settlement and recognizes the significant
27 value accorded to the Class.

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

5 9. The Court hereby approves the Gross Settlement Amount of \$800,000.00.

6 10. The Court finds and determines that the Individual Settlement Payments to be paid
7 to participating Settlement Class Members as provided for by the Settlement are fair and
8 reasonable. The Court hereby gives final approval to and orders the payment of those amounts
9 be made to the participating Settlement Class Members in accordance with the Settlement
10 Agreement.

11 11. The Court finds and determines that payment to the California Labor and
12 Workforce Development Agency of \$30,000.00 as its share of the settlement of civil penalties in
13 this case is fair, reasonable, and appropriate. The Court hereby gives final approval to and orders
14 that the payment of that amount be paid in accordance with the Settlement Agreement.

15 12. The Court finds and determines that the fees and expenses in administering the
16 Settlement incurred by Phoenix Settlement Administrators, Inc. in the amount of \$10,000.00, are
17 fair and reasonable. The Court hereby gives final approval to and orders that the payment of that
18 amount in accordance with the Settlement.

19 13. The Court finds and determines the Class Representative Enhancement Awards
20 of up to \$10,000 each for both Plaintiffs Roger Westfall and Joseph M. Atwell (for a total of
21 \$20,000 in Class Representative Enhancement Awards) is fair and reasonable. The Court
22 hereby orders the Administrator to make this payment to the Plaintiff/Class Representative in
23 accordance with the terms of the Settlement Agreement.

24 14. Pursuant to the terms of the Settlement, and the authorities, evidence and
25 argument submitted by Class Counsel, the Court hereby awards Class Counsel attorneys' fees
26 in the sum of \$266,667.00 and litigation costs of \$19,601.72. The Court finds such amounts to
27 be fair and reasonable. The Court hereby orders the Settlement Administrator to make these
28 payments in accordance with the terms of the Settlement Agreement.

1 15. Notice of this Order Granting of Final Approval of Class Action Settlement and
2 Entering Judgement to the Class Members will be accomplished by posting notice on the
3 Settlement Administrator's website for a period of sixty (60) days.

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

7 17. Neither Defendant nor any related persons or entities shall have any further
8 liability for costs, expenses, interest, attorneys' fees, or for any other charge, expense, or liability,
9 except as provided for by the Settlement Agreement.

10 18. Neither the making of the Settlement Agreement nor the entry into the Settlement
11 Agreement constitutes an admission by Defendant, nor is this order a finding of the validity of
12 any claims in this case or of any other wrongdoing. Further, the Settlement Agreement is not a
13 concession, and shall not be used as an admission of any wrongdoing, fault, or omission of any
14 entity or persons; nor may any action taken to carry out the terms of the Settlement Agreement
15 be construed as an admission or concession by or against Defendant or any related person or
16 entity.

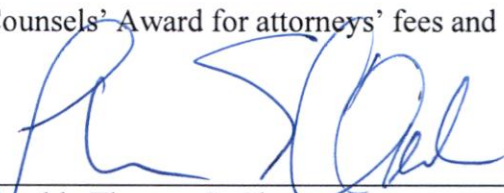
17 19. Nothing in this order shall preclude any action to enforce the Parties' obligations
18 under the Settlement or under this order, including the requirement that Defendants make
19 payment to the participating Settlement Class Members in accordance with the Settlement.

20 20. Upon completion of administration of the Settlement, the Settlement
21 Administrator will provide written certification of such completion to the Court and counsel for
22 the Parties which shall be filed with the Court five (5) court days before the non-appearance
23 compliance hearing set for January 30, 2025 at 8:30 a.m., in Dept. 17.

24 21. The Court hereby enters final judgment in accordance with the terms of the
25 Settlement Agreement, the Order Granting Preliminary Approval of Class Action Settlement
26 filed on August 24, 2023, and this Order.

1 22. The Parties will bear their own costs and attorneys' fees except as otherwise
2 provided by this Court's Order awarding Class Counsels' Award for attorneys' fees and litigation
3 costs.

4 DATED: 2-1, 2024



Honorable Thomas S. Clark
JUDGE OF THE SUPERIOR COURT