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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Tisha Castillo, et al.,
Plaintiffs,
v.
George Harry Johnson, et al.,
Defendants.

No. CV-17-04688-PHX-DLR

**ORDER GRANTING PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT**

Upon consideration of Plaintiffs’ Motion for Preliminary Approval of Class Action Settlement (Doc. 262), the Settlement Agreement executed by the Parties on November 19, 2021, and the pleadings and other materials on file in this Action, and for good cause shown,

IT IS ORDERED that Plaintiff’s motion is GRANTED.

IT IS FURTHER ORDERED AS FOLLOWS:

1. The Settlement Agreement and the exhibits thereto are hereby incorporated by reference in this Order as if fully set forth herein. Capitalized terms in this Order shall, unless otherwise defined herein, have the same meaning as in the Settlement Agreement.
2. Pursuant to Fed. R. Civ. P. 23, the terms of the Settlement Agreement, and the settlement provided for therein, are preliminarily approved as (a) fair, reasonable, and adequate in light of the relevant factual, legal, practical and procedural considerations of the Action; (b) free of collusion to the detriment of Class Members; and (c) within the range of possible final judicial approval, subject to further consideration thereof at the

1 Final Approval Hearing described in Paragraph 8 below.

2 3. As set forth in Plaintiffs' Motion for Preliminary Approval of Class Action
3 Settlement, Class Counsel and non-party EPCOR Water Arizona Inc. ("EPCOR") have
4 entered into an agreement under which EPCOR, which acquired Defendant Johnson
5 Utilities in January 2021, will assist in the administration of this settlement. Accordingly,
6 EPCOR is ordered to provide to Class Counsel certain customer information collected
7 when service was established (*e.g.*, name, address, etc.) for all EPCOR customers who
8 meet the definition of the class certified by this Court. EPCOR will provide certain
9 information about its Class Member customers, identifying for each (to the extent
10 feasible):

- 11 a. The customer start date and end date (if applicable) for service.
- 12 b. The class of customer (i.e., residential, commercial etc.).
- 13 c. Whether the customer is a water customer, wastewater customer, or both a
14 water and wastewater customer.
- 15 d. Certain customer information collected in accordance with Arizona
16 Corporation Commission regulations when service was established (i.e.,
17 customer name, service address, purpose of service etc.).

18 4. The Settlement Administrator will cause to be filed with the Court by
19 **February 11, 2022** a sworn declaration verifying that notice was provided to all
20 Settlement Class Members as required by this Order and including a list of the Settlement
21 Class Members who validly opted out of the Settlement Class as set forth in Paragraph 6
22 below.

23 5. The Court finds that the Settlement Agreement's plan for direct notice via
24 EPCOR billing as to current EPCOR customers, and to notice via U.S. mail and
25 publication notice as to Class Members who are not current EPCOR customers, is the best
26 notice practicable under the circumstances and satisfies the requirements of due process
27 and Fed. R. Civ. P. 23. That plan is approved and accepted. The Court further finds that
28 the proposed short-form and long-form notices, as attached to Plaintiffs' Motion for
Preliminary Approval of Class Action Settlement, comply with Fed. R. Civ. P. 23 and are
appropriate as part of the notice plan and the settlement, and thus they are hereby

1 approved, adopted and authorized for dissemination. The Court further finds that no other
2 notice to Settlement Class Members other than that identified in the Settlement Agreement
3 is reasonably necessary in this Action.

4 6. Any request by a Settlement Class Member to be excluded from the
5 Settlement Class (*i.e.*, to “opt out”) must be in writing and include the Settlement Class
6 Member’s name, address, telephone number, and a statement that the person wishes to opt
7 out of the Settlement Class. The opt-out request must be personally signed by the
8 Settlement Class Member who seeks to opt out; no Settlement Class Member may opt out
9 through an actual or purported agent or attorney acting on behalf of the Settlement Class
10 Member. No opt-out request may be made on behalf of a group of Settlement Class
11 Members. To be effective, the opt-out request must be mailed to the Settlement
12 Administrator and must be postmarked on or before **March 11, 2022**. Each Settlement
13 Class Member who does not submit a valid request to opt out shall remain in the
14 Settlement Class and, in the event the settlement is finally approved, shall be bound by
15 the settlement and release provided in the Settlement Agreement.

16 7. Any Settlement Class Member who does not opt out but wishes to object to
17 the proposed settlement must file with this Court and deliver by First Class Mail to Class
18 Counsel and counsel for Defendants at the addresses set forth in the Class Notice on or
19 before **March 11, 2022**, a written objection to the settlement. Only Settlement Class
20 Members who do not opt out of the settlement may object to the settlement.

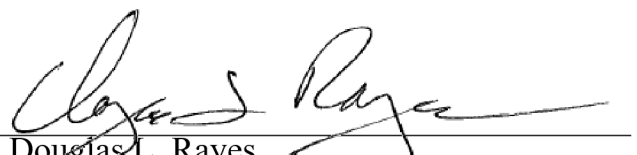
21 8. A Final Approval Hearing shall be held before the undersigned at **9:30 a.m.**
22 **on March 25, 2022** at the Sandra Day O’Connor United States Courthouse, 401 W.
23 Washington Street, Phoenix, AZ, to determine (a) whether the proposed settlement should
24 be approved as fair, reasonable and adequate; (b) whether the Action should be dismissed
25 with prejudice pursuant to the terms of the Settlement Agreement; (c) whether Settlement
26 Class Members should be bound by the Release set forth in the Settlement Agreement; (d)
27 Plaintiffs’ attorneys’ fees and costs request; and (e) any requested service/incentive
28 rewards for the Class Representatives. The Final Approval Hearing may be postponed,

1 adjourned or continued by order of the Court without further written notice to the
2 Settlement Class.

3 9. If the Court does not grant Final Approval of the settlement without material
4 modification, or if Final Approval is reversed in whole or in part on appeal, certification
5 of the Settlement Class will be vacated and the Parties will be returned to their positions
6 status quo ante with respect to the Action as if the settlement had not been entered into. In
7 the event that Final Approval is not achieved: (a) any Court order preliminarily or finally
8 approving the certification of any class contemplated by the Settlement and any other
9 order entered pursuant to the Agreement shall be null, void, and vacated, and shall not be
10 used or cited thereafter by any person or entity in support of claims or defenses or in
11 support or in opposition to a class certification motion; and (b) the Settlement Agreement
12 will become null and void, and the fact of this settlement, that Defendant did not oppose
13 the certification of any class under the Settlement, or that the Court preliminarily approved
14 the certification of a settlement class, shall not be used or cited thereafter by any person
15 or entity, including in any contested proceeding relating to the certification of any class.
16 In addition, if Final Approval is reversed in whole or in part on appeal, the release of
17 claims set forth in in the Settlement Agreement shall be rescinded.

18 10. The Parties shall meet and confer in good faith to resolve any dispute
19 concerning the Settlement Agreement and, to the extent any such dispute cannot be
20 resolved between them, resolve the dispute pursuant to the dispute resolution clause of the
21 8/3/21 Settlement Terms Sheet. The Parties shall meet and confer in good faith to resolve
22 any dispute concerning any part of this Order that is not based on the Settlement
23 Agreement and, to the extent any such dispute cannot be resolved between them, present
24 the matter to this Court for resolution.

25 Dated this 13th day of December, 2021.

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Douglas L. Rayes
United States District Judge