

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

ADAM KRUZELL, individually, and as
Representative of a Class of Participants
and Beneficiaries of the Clean Harbors
Savings and Retirement Plan,

Case No: 1:22-cv-10524-GAO

Plaintiff,

v.

CLEAN HARBORS ENVIRONMENTAL
SERVICES, INC., et al.

Defendants

**ORDER ON PLAINTIFF’S MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION SETTLEMENT**

This litigation arose out of claims of alleged breaches of fiduciary duties in violation of the Employee Retirement Income Security Act of 1974 (“ERISA”), asserted against Defendants, Clean Harbor Environmental Services, Inc. (“Clean Harbor”), the Board of Directors of the Clean Harbor Environmental Services, Inc., including Alan S. McKim, Michael L. Battles, and Eric W. Gerstenberg (“Board Defendants”) (collectively, “Defendants”), and the Retirement Plan Committee and its individual members (“Committee Defendants”), relating to the management of the Clean Harbors Retirement and Savings Plan (“Clean Harbors Plan”).

Presented to the Court for preliminary approval is a settlement of the litigation as against all Defendants. The terms of the Settlement are set out in a Class Action Settlement Agreement dated June 7, 2024, executed by Class Counsel and Defendants’ Counsel. Except as otherwise defined herein, all capitalized terms used herein shall have the same meaning as ascribed to them

in the Settlement Agreement.

Upon reviewing the Settlement Agreement and the papers submitted in connection with the Motion for Preliminary Approval, and good cause appearing therefore,

It is hereby ORDERED as follows:

1. Preliminary Findings Regarding Proposed Settlement: The Court preliminarily finds that:

A. The proposed Settlement resulted from arm's-length negotiations by experienced and competent counsel overseen by a neutral mediator;

B. The Settlement was negotiated only after Class Counsel had received pertinent information and documents from Defendants;

C. Class Counsel and the Class Representatives have submitted declarations in support of the Settlement; and

D. Considering the relevant First Circuit factors, the Settlement is sufficiently fair, reasonable, and adequate to warrant sending notice of the Settlement to the Settlement Class.

2. Fairness Hearing: A hearing will be held in person on **December 12, 2024, at 11 a.m., in Courtroom 22** of the United States District Court for the District of Massachusetts, before the undersigned United States Judge, to determine, among other issues:

A. Whether the Court should approve the Settlement as fair, reasonable, and adequate;

B. Whether the Court should enter the Final Approval Order, and

C. Whether the Court should approve any motion for Attorneys' Fees and Costs, Administrative Expenses, and Class Representative Compensation.

3. Settlement Administrator: The Court approves and orders that Analytics shall be the Settlement Administrator responsible for carrying out the responsibilities set forth in the Settlement Agreement.

- A. The Settlement Administrator shall be bound by the Confidentiality Order and any further non-disclosure or security protocol jointly required by the Settling Parties, set forth in writing to the Settlement Administrator.
- B. The Settlement Administrator shall use the data provided by Defendants and the Plans' recordkeeper solely for the purpose of meeting its obligations as Settlement Administrator, and for no other purpose.
- C. The Settling Parties shall have the right to approve a written protocol to be provided by the Settlement Administrator concerning how the Settlement Administrator will maintain, store, and dispose of information provided to it in order to ensure that reasonable and necessary precautions are taken to safeguard the privacy and security of such information.

4. Class Certification: The following Settlement Class is preliminarily certified for settlement purposes only pursuant to Fed. R. Civ. P. 23(b)(1):

All persons who participated in the Plan at any time during the Class Period, including any Beneficiary of a deceased Person who participated in the Plan at any time during the Class Period, and any Alternate Payee of a Person subject to a QDRO who participated in the Plan at any time during the Class Period. Excluded from the Settlement Class are the current and former members of the Retirement Plan Committee of Clean Harbors during the Class Period and Alan S. McKim and Eric W. Gerstenberg.

The Court appoints Adam Kruzell as representative for the Settlement Class. Further, the Court appoints Walcheske & Luzi, LLC, Jonathan Feigenbaum, Haney Law Office, P.C., as counsel for the Settlement Class.

5. **Class Notice:** The Settling Parties have presented to the Court the Settlement Notice, which is the proposed form of notice regarding the Settlement for electronic mailing to Class Members.

A. The Court approves the text of the Settlement Notice and finds that the proposed forms and content therein fairly and adequately:

- i. Summarize the claims asserted;
- ii. Describe the terms and effect of the Settlement;
- iii. Notify the Settlement Class that Class Counsel will seek compensation from the Qualified Settlement Fund for Attorneys' Fees and Costs, Administrative Expenses, and Class Representative Compensation;
- iv. Give notice to the Settlement Class of the time and place of the Fairness Hearing, and Class Members' right to appear; and
- v. Describe how the recipients of the Class Notice may object to the Settlement, or any requested Attorneys' Fees and Costs, Administrative Expenses, or Class Representative Compensation.

B. Pursuant to Rules 23(c)(2) and (e) of the Federal Rules of Civil Procedure, the contents of the Settlement Notice and e-mailing or sending by first-class mail the Settlement Notice constitutes the best notice practicable under the circumstances, provides due and sufficient notice of the Fairness Hearing and of the rights of all Class Members, and complies fully with the requirements of Federal Rule of Civil Procedure 23 and due process.

C. The Settlement Administrator shall send by first-class mail the appropriate Settlement Notice to each Class Member by **September 27, 2024**, based on data provided by the

Plan's recordkeeper. The Settlement Notices shall be mailed to the last known e-mail address of each Class Member provided by the Plans' recordkeeper (or its designee), unless an updated address is obtained by the Settlement Administrator through its efforts to verify the last known email addresses provided by the Plan's recordkeeper (or its designee). The Settlement Administrator shall use commercially reasonable efforts to locate any Class Member whose Settlement Notice is returned and resend such documents one additional time.

D. Pursuant to the Plan of Allocation filed with the motion for preliminary approval, current Participants will receive their settlement payments to their Plan accounts, while former Participants will receive their settlement payment via check.

E. On or before the date that the Settlement Notice is sent to the Settlement Class, the Settlement Administrator shall establish a Settlement Website and telephone support line as provided by the Settlement Agreement. The Settlement Administrator shall post a copy of the Settlement Notice on the Settlement Website.

6. Objections to Settlement: Any objections to any aspect of the Settlement shall be heard, and any papers submitted in support of said objections shall be considered, by the Court at the Fairness Hearing if they have been timely sent to Class Counsel and Defendants' Counsel. To be timely, the objection and any supporting documents must be sent to Class Counsel and Defendants' Counsel by **November 21, 2024**.

7. Responses to Objections and Final Approval Motion: Any party may file a response to an objection by a Class Member by **December 5, 2024**, and Class Counsel shall file the Final Approval Motion by **November 13, 2024**. Class Counsel shall file their fee petition no later than **November 22, 2024**.

8. Continuance of Hearing: The Court may adjourn, modify, or continue the Fairness Hearing without further direct notice to the Class Members, other than by notice via the Court's docket or the Settlement Website.

IT IS SO ORDERED.

Dated: 8/26/2024

/s/ George A. O'Toole, Jr.
Hon. George A. O'Toole, Jr.
United States District Judge