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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

RAMON BARCIA; RANDALL LEWIS; on behalf of themselves, and on behalf of all persons similarly situated,

Plaintiffs,

v.

CONTAIN-A-WAY, INC., a California corporation, doing business as NEXCYCLE and 20/20 RECYCLE CENTERS,

Defendants.

Case No. 07-CV-0938 IEG (JNA)

**ORDER OF PRELIMINARY APPROVAL
OF SETTLEMENT, CERTIFICATION OF
SETTLEMENT CLASS AND
APPOINTMENT OF CLASS COUNSEL**

Judge: Irma E. Gonzalez

1 WHEREAS, on June 17, 2008, Plaintiffs Ramon Barcia and Randall Lewis (“Plaintiffs”) and
2 Defendant Contain-A-Way (“Defendant”) entered into a Stipulation of Settlement (“Settlement
3 Agreement”) intended to resolve the above-captioned action;

4 WHEREAS, the Settlement Agreement sets forth the terms and conditions of a proposed
5 settlement and the dismissal of this action against Defendant;

6 WHEREAS, the Court has before it the Plaintiff’s Motion for Preliminary Approval of
7 Settlement and Certification of Settlement Class and Plaintiff’s Motion for Appointment of Class
8 Counsel filed July 3, 2008, together with supporting materials;

9 WHEREAS, the Court is satisfied that the terms set forth in the Settlement Agreement are the
10 result of good faith, arms-length negotiations among Plaintiff and Defendant, and experienced counsel
11 for both Plaintiff and Defendant; and

12 WHEREAS, the Court now finds and Orders as follows:

13
14 Conditional Certification of Settlement Class

15 1. Terms used in this Order have the meaning assigned to them in the Settlement
16 Agreement.

17 2. For purposes only of the proposed settlement, a Class defined as follows is
18 conditionally certified pursuant to Federal Rule of Civil Procedure 23: All individuals employed as
19 Site Attendants and/or Floaters by Defendant in California, at any time from May 23, 2003 to the date
20 of preliminary approval of the settlement by the Court, and who do not file a timely request to be
21 excluded from the settlement. In the event the proposed settlement is not consummated for any reason,
22 the conditional certification set forth in this paragraph shall be of no further force or effect.

23 Appointment of Class Counsel

24 3. The law firm of Blumenthal & Nordrehaug and Norman B. Blumenthal, Kyle
25 Nordrehaug and Aparajit Bhowmik of that firm have fairly and adequately represented the interests of
26 the Class, will continue to do so and, pursuant to Federal Rule of Civil Procedure 23(g)(1), are
27

1 appointed class counsel for purposes of representing the Class conditionally certified in the preceding
2 paragraph of this Order.

3
4 Preliminary Approval of Settlement

5 4. Pursuant to Federal Rule of Civil Procedure 23(c)(2)(B) and (e)(1)(B), the provisions of
6 the Settlement Agreement are hereby preliminarily approved, subject to further consideration thereof at
7 the final approval hearing provided for below. The Court finds that the Settlement Agreement is
8 sufficiently within the range of reasonableness and that settlement is in the best interests of the Class,
9 such that notice of the proposed settlement should be given as provided in paragraph 5 of this Order.

10
11 Notice to Class Members

12 5. Within 30 days of the entry of this Order, a Notice of Preliminary Approval and Final
13 Approval Hearing (“Notice”), in the form attached to the Settlement as Exhibit A, along with the Proof
14 of Claim Form in the form attached to the Settlement as Exhibit B, shall be sent by the Claims
15 Administrator to all members of the Class defined above.

16 6. The Notice to be provided as set forth in this Order is hereby found to be the best means
17 practicable of providing notice under the circumstances and, when completed, shall constitute
18 sufficient notice of the settlement, the Final Approval Hearing, and the right to be excluded from the
19 settlement to all persons entitled to participate in the settlement, pursuant to Federal Rule of Civil
20 Procedure 23(c)(2)(B) and (e)(1)(B).

21 7. Any member of the class who desires to opt out of this class action must postmark his
22 or her notification of such intent, pursuant to instructions in the Notice, no later than 45 days from the
23 date of mailing the Notice.

24
25 The Final Approval Hearing

26 8. A hearing on final settlement approval (the “Final Approval Hearing”) is hereby
27 scheduled to be held before this Court on March 2, 2009, at 10:30 a.m., to consider the fairness,
28 reasonableness, and adequacy of the proposed settlement, Plaintiffs’ motion for the award of attorneys’

1 fees and costs, the dismissal with prejudice of the class action with respect to Defendant, and the entry
2 of the final judgment in this action. The date and time of the Final Approval Hearing shall be set forth
3 in the Notice.

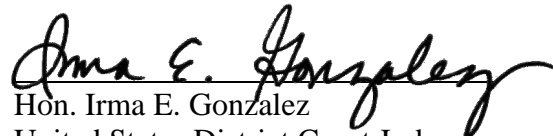
4 9. All papers in support of final approval shall be filed on or before February 2, 2009.

5 10. Any Class Member may, but need not, submit comments or objections to the Settlement
6 Agreement. All such comments and objections must be filed with the Clerk of the Court, in writing, no
7 later than 45 days from the mailing date of the Notice, and copies of all such papers must be delivered
8 to Class Counsel and Defendant's Counsel on or before the same date.

9 11. Class Members wishing to be heard at the Final Approval Hearing are required to file
10 written comments or objections and indicate in the writings their intention to appear at the hearing.
11 Class Members need not appear at the Final Approval Hearing or take any other action to indicate their
12 approval of the Settlement.

13 12. Any Class Member may, but need not, enter an appearance through his or her own
14 attorney or may appear without an attorney.

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17 Dated: 8/14/08 _____


18 Hon. Irma E. Gonzalez
19 United States District Court Judge
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