

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

FAITH BAUTISTA, Individually and on
Behalf of All Others Similarly Situated,

Plaintiff,

vs.

VALERO MARKETING AND SUPPLY
COMPANY,

Defendant.

) Case No. 3:15-cv-05557-RS

) CLASS ACTION

) ~~PROPOSED~~ FINAL JUDGMENT AND
ORDER OF DISMISSAL WITH PREJUDICE

_____)

1 This matter is before the Court pursuant to the Order Granting Unopposed Motion for
2 Preliminary Approval of Class Action Settlement (“Notice Order”) dated November 5, 2020, on
3 the application of the Parties for final approval of the Settlement set forth in the Class Action
4 Settlement Agreement and Release dated September 30, 2020 (“Settlement Agreement”). Due and
5 adequate notice having been given to the Settlement Class as required in the Notice Order, and the
6 Court having considered all papers filed and proceedings had herein and otherwise being fully
7 informed in the premises and good cause appearing therefore, IT IS HEREBY ORDERED,
8 ADJUDGED, AND DECREED that:

9 1. This Final Judgment incorporates by reference the definitions in the Settlement
10 Agreement, and all terms used herein shall have the same meanings as set forth in the Settlement
11 Agreement, unless otherwise set forth herein.

12 2. This Court has jurisdiction over the subject matter of the Action and over all Parties
13 to the Action, including all members of the Settlement Class.

14 3. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, the Court hereby
15 affirms its determination in the Notice Order and finally certifies for purposes of settlement only
16 a Settlement Class defined as: “All persons who, between December 3, 2011 and the date of
17 preliminary approval, purchased gasoline using a debit card at a Valero-branded station in
18 California that advertised a ‘cash’ price and ‘credit’ price on Relevant Valero-Branded Signage
19 but the Relevant Valero-Branded Signage did not affirmatively disclose how gasoline purchased
20 with a debit card was priced, and were charged more money per gallon than the advertised ‘cash’
21 price.”

22 4. Pursuant to Fed. R. Civ. P. 23(e), the Court finds that the Settlement Agreement
23 and Settlement are fair, reasonable, and adequate as to each of the Settling Parties, and that the
24 Settlement Agreement and Settlement are hereby finally approved in all respects, and the Settling
25 Parties are hereby directed to perform its terms.

26 5. Accordingly, the Court authorizes and directs implementation of all the terms and
27 provisions of the Settlement Agreement, as well as the terms and provisions hereof. The Court
28 hereby dismisses, as to Defendant, the Action and all Plaintiff’s Released Claims with prejudice,

1 without costs as to any of the Released Parties, except as and to the extent provided in the
2 Settlement Agreement and herein.

3 6. Upon the Effective Date hereof, and as provided in the Settlement Agreement,
4 Plaintiff and each of the Settlement Class members who have not timely opted out of the Settlement
5 Class shall be deemed to have, and by operation of this Final Judgment shall have, fully, finally,
6 and forever released, relinquished, and discharged Valero and its parents, subsidiaries, affiliates,
7 and all of their respective officers and employees and Valero Counsel from all Plaintiff's Released
8 Claims (including, but not limited to, Unknown Claims (as defined in the Settlement Agreement)).

9 7. Upon the Effective Date hereof, and as provided in the Settlement Agreement,
10 Valero and its subsidiaries, affiliates, and all of their respective officers and employees shall be
11 deemed to have, and by operation of this Final Judgment shall have, fully, finally, and forever
12 released, relinquished, and discharged Plaintiff, each and all of the Settlement Class members, and
13 Class Counsel from all claims (including, but not limited to, Unknown Claims) arising out of,
14 relating to, or in connection with the institution, prosecution, assertion, settlement, or resolution
15 of the Action, including any defenses or compulsory counterclaims Valero has or may have to the
16 claims in the Second Amended Complaint, and Defendant's Released Claims.

17 8. The Notice given to the Settlement Class in accordance with the Notice Order was
18 the best notice practicable under the circumstances of these proceedings and of the matters set
19 forth therein, including the proposed Settlement set forth in the Settlement Agreement, to all
20 Persons entitled to such notice, and said notice fully satisfied the requirements of Fed. R. Civ. P.
21 23 and due process.

22 9. Any order entered regarding any attorneys' fee and expense application shall in no
23 way disturb or affect this Final Judgment and shall be considered separate from this Final
24 Judgment.

25 10. Neither the Settlement Agreement nor the Settlement contained therein, nor any act
26 performed or document executed pursuant to or in furtherance of the Settlement Agreement or the
27 Settlement: (a) is or may be deemed to be or may be used as an admission of, or evidence of, the
28 validity of any Released Claim, or of any wrongdoing or liability of the Released Parties; or (b) is

1 or may be deemed to be or may be used as an admission of, or evidence of, any fault or omission
2 of any of the Released Parties, in any civil, criminal, or administrative proceeding in any court,
3 administrative agency, or other tribunal. The Released Parties may file the Settlement Agreement
4 and/or this Final Judgment in any action that may be brought against them in order to support a
5 defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good faith
6 settlement, judgment bar or reduction, or any other theory of claim preclusion or issue preclusion
7 or similar defense or counterclaim.

8 11. Without affecting the finality of this Final Judgment in any way, this Court hereby
9 retains continuing exclusive jurisdiction over: (a) implementation of this Settlement; (b) hearing
10 and determining applications for attorneys' fees and expenses in the Action; and (c) all Parties
11 hereto for the purpose of construing, enforcing, and administering the Settlement Agreement.

12 12. The Court finds that during the course of the Action, the Parties and their respective
13 counsel at all times complied with the requirements of Fed. R. Civ. P. 11.

14 13. In the event that the Settlement does not become effective in accordance with the
15 terms of the Settlement Agreement, or the Effective Date does not occur, then this Final Judgment
16 shall be rendered null and void to the extent provided by and in accordance with the Settlement
17 Agreement and shall be vacated and, in such event, all orders entered and releases delivered in
18 connection herewith shall be null and void to the extent provided by and in accordance with the
19 Settlement Agreement.

20 14. Without further order of the Court, the Settling Parties may agree to reasonable
21 extensions of time to carry out any of the provisions of the Settlement Agreement.

22 15. The Court directs immediate entry of this Final Judgment by the Clerk of the Court.

23 **IT IS SO ORDERED.**

24 DATED: March 17, 2021

25 

26 HONORABLE RICHARD SEEBORG
27 CHIEF UNITED STATES DISTRICT JUDGE