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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF CONTRA COSTA

JAMIE KENNEDY, as an individual and
on behalf of all others similarly situated,

Plaintiff,

vs.

UNIVAR SOLUTIONS USA INC., a
Washington corporation; and DOES 1
through 50, inclusive,

Defendants.

Case No.: MSC21-00272

[Assigned for all purposes to the Hon. E. Weil,
Department 39]

**[PROPOSED] ORDER GRANTING FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT**

Date: January 26, 2023

Time: 9:00 a.m.

Dept: 39

Complaint Filed: February 16, 2021

Trial Date: Not Set

1 Plaintiff Jamie Kennedy (“Plaintiff”) and Defendant Univar Solutions USA Inc.
2 (“Defendant”) (collectively, the “Settling Parties”) have entered into the Joint Stipulation of
3 Class Action Settlement (“Stipulation” or “Settlement Agreement”) to settle the above-captioned
4 class action subject to the Court’s approval (the “Settlement”).

5 This matter is now before the Court on Plaintiff’s Motion for Final Approval of Class
6 Action Settlement. The Court has read, heard, and considered all the pleadings and documents
7 submitted, and the presentations made in connection with the Motion which came on for hearing
8 on January 26, 2023.

9 **I. BACKGROUND**

10 On February 16, 2021, Plaintiff initiated this action in the Contra Costa County Superior
11 Court, raising claims under Labor Code § 2698, *et seq.*, the California Labor Code Private
12 Attorneys General Act (“PAGA”) and a class action on behalf of non-exempt employees,
13 alleging that defendant violated the Labor Code in various ways, all of which arose from
14 underpayment of sick pay.

15 **A. Class Members**

16 The “Class Members” or “Settlement Class Members” is comprised of “all non-union
17 former non-exempt California employees of Defendant who were paid sick pay wages and non-
18 discretionary incentive wages, including, but not limited to, job premium and/or shift differential
19 wages, in the same workweek during their employment and whose employment ended at any
20 time between August 22, 2017, and the date of preliminary approval of the Settlement.”

21 **B. Operation of the Settlement**

22 Pursuant to the Preliminary Approval Order, this Court conditionally certified the
23 Settlement Class and granted preliminary approval of the Settlement. The Preliminary Approval
24 Order also approved of the proposed form of class notice and notice plan. The Court entered the
25 Preliminary Approval Order on September 22, 2022, after review and consideration of the
26 pleadings filed in connection herewith.

27 In compliance with the Preliminary Approval Order, the Notice of Class Action
28 Settlement (“Class Notice”) was sent to all Class Members via first class mail. The notice

1 dissemination process was timely completed.

2 This Court finds that the Settlement appears to be the product of serious, informed, non-
3 collusive negotiations, has no obvious deficiencies, and does not improperly grant preferential
4 treatment to any individuals. The Court finds that the Settlement was entered into in good faith
5 pursuant to California Code of Civil Procedure § 877.6. The Court further finds that the
6 Settlement is fair, reasonable, and adequate and that Plaintiff has satisfied the standards for final
7 approval of a class action settlement under California law. Under the provisions of California
8 Code of Civil Procedure § 382 and Federal Rule of Civil Procedure 23, as approved for use by
9 the California state court in *Vasquez v. Superior Court* (1971) 4 Cal.3d 800, 821, the trial court
10 has discretion to certify a class where:

11 [Q]uestions of law or fact common to the members of the class
12 predominate over any questions affecting only individual members,
13 and that a class action is superior to the available methods for the
14 fair and efficient adjudication of the controversy ... Fed. R. Civ.
 Proc. 23.

15 Certification of a settlement class is the appropriate judicial device under these
16 circumstances.

17 Based on the foregoing, IT IS HEREBY ORDERED AS FOLLOWS:

18 1. The Court, for purposes of this Order, adopts all defined terms as set forth in the
19 Settlement Agreement filed in this case.

20 2. The Court has jurisdiction over the subject matter of the litigation, the Class
21 Representative, the Participating Class Members, and Defendant.

22 3. The Court finds that the dissemination of the Class Notice disseminated to the
23 Class Members, constituted the best notice practicable under the circumstances to all Persons
24 within the definition of the Class, and fully met the requirements of California law and due
25 process under the United States Constitution. No objections were received by the Parties or the
26 Court through the date of this Order. The Court finds that no Class Member submitted a request
27 for exclusion from the Settlement as determined by the Settlement Administrator.

28 4. The Court approves the Settlement of the above-captioned action, as set forth in

1 the Settlement Agreement, as fair, just, reasonable, and adequate as to the Settling Parties. The
2 Settling Parties are directed to perform in accordance with the terms set forth in the Settlement
3 Agreement.

4 5. Except as otherwise provided in the Settlement Agreement, the Settling Parties
5 are to bear their own costs and attorneys' fees.

6 6. The Court hereby certifies the following Settlement Class for settlement purposes
7 only: all non-union former non-exempt California employees of Defendant who were paid sick
8 pay wages and non-discretionary incentive wages, including, but not limited to, job premium
9 and/or shift differential wages, in the same workweek during their employment and whose
10 employment ended at any time between August 22, 2017, and the date of preliminary approval of
11 the Settlement.

12 7. With respect to the Settlement Class and for purposes of approving the Settlement
13 only and for no other purpose, this Court finds and concludes that: (a) the members of the
14 Settlement Class are ascertainable and so numerous that joinder of all members is impracticable;
15 (b) there are questions of law or fact common to the Settlement Class, and there is a well-defined
16 community of interest among Members of the Settlement Class with respect to the subject matter
17 of the claims in the Litigation; (c) the claims of Class Representative is typical of the claims of
18 the members of the Settlement Class; (d) the Class Representative has fairly and adequately
19 protected the interests of the members of the Settlement Class; (e) a class action is superior to
20 other available methods for an efficient adjudication of this controversy; and (f) the counsel of
21 record for the Class Representative, *i.e.*, Class Counsel, are qualified to serve as counsel for the
22 Plaintiff in his individual and representative capacity and for the Settlement Class.

23 8. Defendant shall fund \$95,000.00 of the total Maximum Settlement Amount
24 pursuant to the terms of the Settlement Agreement.

25 9. The Court approves the individual settlement payment amounts, which shall be
26 distributed pursuant to the terms of the Settlement Agreement.

27 10. The \$95,000.00 Maximum Settlement Amount shall be used to pay (a) Class
28 Counsel attorneys' fees in the amount of \$31,666.67 and reimbursement of costs in the amount

1 of \$8,182.70; (b) an enhancement payment to the Class Representative Jamie Kennedy to
2 reimburse her for her unique services in the following amount: \$10,000.00; (c) the sum of
3 \$3,750.00 to be paid to the State of California Labor & Workforce Development Agency for
4 PAGA penalties; and (d) \$4,500.00 to the administrator Phoenix Settlement Administrators (the
5 “Settlement Administrator”) for its fees and costs relating to the settlement administration
6 process. The Court finds that these amounts are fair and reasonable. Defendant is directed to
7 make such payments in accordance with the terms of the Settlement Agreement. The allocation
8 and distribution of these amounts shall be performed by Settlement Administrator.

9 11. As of the date of this Order, all Participating Class Members are hereby deemed
10 to have waived and released all Released Claims and are forever barred and enjoined from
11 prosecuting the Released Claims against the Released Parties as these terms are defined and fully
12 set forth in the Settlement Agreement. The Settlement is not an admission of liability or
13 wrongdoing by Defendant, nor is this Order a finding of the validity of any claims in the Action,
14 as defined in the Settlement Agreement, or of any fault, omission, or wrongdoing by Defendant.
15 Neither the Settlement Agreement, nor any document referenced therein, nor action taken to
16 carry out the Settlement, will be (a) construed or used as an admission, concession, or indication
17 by or against Defendant of any fault, wrongdoing, or liability, including any concession that
18 certification of a class other than for purposes of settlement would be appropriate in the Action
19 or in any other case or an admission that any of Defendant’s defenses in the Action are without
20 merit, or (b) disclosed, referred to, or offered in evidence against Defendant in any further
21 proceeding except for purposes of effectuating the Settlement. However, the Settlement
22 Agreement may be used in any proceeding to enforce its terms, or in defense of any claims
23 released or barred by the Settlement.

24 12. Without affecting the finality of the Settlement or Judgment entered, this Court
25 shall retain exclusive and continuing jurisdiction over the action and the Parties, including all
26 Settlement Class Members, for purposes of enforcing and interpreting this Order and the
27 Settlement.

28 IT IS SO ORDERED AND ADJUDGED.

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DATED: _____

HON. E. WEIL
SUPERIOR COURT OF CALIFORNIA