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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

NOV 16 2023

BY Amber M. Gear
AMBER M. GEAR, DEPUTY

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO**

HOLLY MCCARTHY, LETICIA RODARTE, and
RACHEL MENDOZA on behalf of themselves
and all others similarly situated and as private
attorneys general.

Plaintiffs,

vs.

THE VONS COMPANIES, INC., a Michigan
corporation; and DOES 1 through 100, Inclusive.

Defendants.

Case No. CIVDS2021085

**~~PROPOSED~~ ORDER GRANTING
MOTION FOR FINAL APPROVAL OF
CLASS ACTION SETTLEMENT AND
FINAL JUDGMENT**

Date: October 23, 2023
Time: 9:00 a.m.
Department: S-26
Complaint Filed: November 24, 2021

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1 On August 29, 2023, Plaintiffs Holly McCarthy, Leticia Rodarte, and Rachel Mendoza filed a
2 motion for an Order Granting Final Approval of Class Action Settlement, and on October 23, 2023, a
3 hearing was held on this matter.

4 The Court has considered the papers and evidence, including the Stipulation of Class Action
5 Settlement and Settlement Agreement (the "Agreement"), the arguments of counsel, and all other
6 matters presented to the Court regarding final approval of the settlement, approval of requested
7 allocations from the settlement fund, and entry of final judgment.

8 **I. Recital**

9 On September 28, 2020, Plaintiff, Holly McCarthy, initiated this class and Labor Code Private
10 Attorneys General Act of 2004 ("PAGA") action against Defendant, The Vons Companies, Inc.
11 Meanwhile, on February 13, 2020, Plaintiff, Leticia Rodarte, had separately filed a class action and
12 PAGA complaint against Defendant. Finally, on May 24, 2021, Plaintiff, Rachel Mendoza, also filed a
13 PAGA complaint against Defendant. All three Plaintiffs collectively allege their claims in the operative
14 First Amended Complaint in this matter.

15 On behalf of a putative class of current and former non-exempt employees of Defendant in the
16 State of California, and as a proxy for the State, Plaintiffs pursue class action and PAGA claims for
17 failures to (i) pay minimum and overtime wages; (ii) provide compliant meal breaks or compensation in
18 lieu thereof; (iii) provide compliant rest breaks or compensation in lieu thereof; (iv) provide accurate
19 wage statements; (v) pay all wages upon termination; and (vi) pay sick pay wages in full and at the
20 correct rate of pay. Defendant denies the allegations.

21 **A. Class Members**

22 The Class is defined to include all current and former non-exempt employees of Defendant in the
23 State of California during the period of February 13, 2016, through April 30, 2022, excluding employees
24 who worked at the distribution centers and plants, drivers, and pharmacists, and through August 7, 2020,
25 non-union employees. Excluding opt outs, there are 70,283 individuals that comprise the Settlement
26 Class.
27
28

1 **B. Operation of the Settlement**

2 Pursuant to the Court's June 8, 2023 Preliminary Approval Order, the Court conditionally
3 certified the Class and granted preliminary approval to the settlement. The Preliminary Approval Order
4 also approved of the proposed forms of notice to the Class. The Court entered the Preliminary Approval
5 Order after review and consideration of all of the pleadings filed in connection herewith, and the oral
6 presentations made by counsel at the hearing. In compliance with the Preliminary Approval Order, the
7 Notice of Class Action Settlement ("Class Notice") was sent to all Class Members via first class mail.
8 The notice process was timely completed.

9 **II. Finding**

10 This Court finds that the Agreement appears to be the product of serious, informed, non-
11 collusive negotiations, has no obvious deficiencies, and does not improperly grant preferential treatment
12 to any individuals. The Court further finds that the Agreement is fair, adequate, and reasonable and that
13 Plaintiffs have satisfied the standards for final approval of a class action settlement under California law.
14 Under the provisions of California Code of Civil Procedure section 382 and Rule 23 of the Federal
15 Rules of Civil Procedure, as approved for use in *Vasquez v. Superior Court*, 4 Cal. 3d 800, 821 (1971),
16 the trial court has discretion to certify a class where:

17 [Q]uestions of law or fact common to the members of the class predominate over any questions
18 affecting only individual members, and that a class action is superior to the available methods for
19 the fair and efficient adjudication of the controversy ...

19 FED. R. CIV. PROC. 23.

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

21 **III. Order**

22 Good cause appearing **IT IS HEREBY ORDERED AND ADJUDICATED** as follows:

23 1. For purposes of this Order, the Court adopts all defined terms as set forth in the
24 Agreement.

25 2. The Court has jurisdiction over the subject matter of the litigation, the Class
26 Representatives, Settlement Class Members, and Defendant.

27 3. The Court finds that the dissemination of the Class Notice to the Class Members by the
28 appointed Settlement Administrator, CPT Group, Inc., constituted the best notice practicable under the

1 circumstances to all Class Members, and fully met the requirements of California law and due process
2 under the State and Federal Constitutions.

3 4. The Court approves the settlement of the above-captioned action, as set forth in the
4 Agreement, as fair, adequate, and reasonable to the Parties and Class Members. Except as modified by
5 this Order, the Parties are directed to perform in accordance with the terms set forth in the Agreement.

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

8 6. The Court hereby certifies the following Class of all current and former non-exempt
9 employees of Defendant in the State of California during the period of February 13, 2016, through April
10 30, 2022, excluding employees who worked at the distribution centers and plants, drivers, and
11 pharmacists, and through August 7, 2020, non-union employees. Excluding opt outs, there are 70,283
12 individuals that comprise the Settlement Class.¹

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

23 8. Pursuant to the terms of the Agreement, Defendant shall deposit the Gross Settlement
24 Amount of \$3,812,500.00 with the Administrator.

25 9. From the Gross Settlement Amount, the Administrator shall pay:
26
27

28 ¹ There also are 48,833 PAGA Group Members.

- to Class Counsel attorneys' fees in the amount of \$1,321,250.00 and reimbursement of costs in the amount of \$35,510.62;
- to Class Representatives Holly McCarthy, Leticia Rodarte, and Rachel Mendoza for their unique services to the Class, and as consideration for their execution of general releases apart from pending claims, the amount of \$10,000.00 each;
- to the California Labor and Workforce Development Agency the amount of \$75,000.00 for its 75% share of PAGA Penalties;
- to PAGA Group Members the amount of \$25,000.00 for their 25% share of PAGA Penalties, which shall be distributed by the Administrator pro rata based on the number of relevant pay periods worked by each PAGA Group Member; and
- to CPT Group, Inc. the amount of \$187,000.00 for its fees and costs in administering the settlement.

10. The Court finds that these amounts are fair and reasonable. The Administrator is directed to make such payments in accordance with the terms of the Agreement.

11. The Court approves the Individual Settlement Payments, which shall be distributed by the Administrator pursuant to the terms of the Agreement, after allocation of the amounts set forth in Paragraph 9.

12. The Court hereby orders the parties to implement the terms of the Agreement, including distributing the funds from any uncashed settlement checks to the State Unclaimed Property Fund in the name of the recipient.

13. All Class Members, the LWDA, and Plaintiffs shall be bound by the applicable releases provided in the Agreement.

IV. Judgment

The Court hereby enters final judgment in this case in accordance with the terms of the Settlement, Preliminary Approval Order, and this Order. Pursuant to Rule 3.769(h) of the California Rules of Court, and without affecting the finality of the Settlement or Judgment entered, this Court shall retain exclusive and continuing jurisdiction over the action and the Parties, including all Settlement Class Members, for purposes of enforcing this Judgment.

1 Pursuant to Code of Civil Procedure section 668.5, judgment shall be entered as of the filing of
2 this judgment. This judgment makes no finding of any violation of the Labor Code, liability, or other
3 wrongdoing. None of the settlement or any of its terms, the order approving the settlement, or this
4 judgment are an admission of any liability or finding of any violation of the Labor Code.

5 **IT IS SO ORDERED AND ADJUDGED.**

6 DATED: 11/16, 2023



Jessica L. Morgan

JUDGE OF THE SUPERIOR COURT