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

JUL 22 2022

BY 
JESSICA MORALES, DEPUTY

9 Attorneys for Plaintiff SHAWN FITZPATRICK, as representative of the State of California and
10 the Labor and Workforce Development Agency, and on behalf of himself and other current and
11 former employees.

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

13 **COUNTY OF SAN BERNARDINO**

BY FAX

14 SHAWN FITZPATRICK, on behalf of
15 himself and all others aggrieved
16 employees,

17 Plaintiff,

18 v.

19 CONCORD FOODS, INC., a California
20 Corporation; and DOES 1- 50, Inclusive,

21 Defendant,

Case No. CIVSB2116303

**[PROPOSED] ORDER APPROVING
SETTLEMENT AGREEMENT AND
ENTERING FINAL JUDGMENT**

Date: July 22, 2022
Time: 10:00 a.m.

Judge: David Cohn
Dept.: S-26

Complaint Filed: June 7, 2021
Trial Date: None Yet Set

1 On July 22, 2022, a hearing was held on the joint motion of Plaintiff SHAWN
2 FITZPATRICK ("Plaintiff") and Defendant CONCORD FOODS, INC., ("Defendant" or "CFI")
3 motion for approval of a settlement agreement pursuant to California's Private Attorney General
4 Act ("PAGA") (the "Settlement"). The Court having considered all papers filed, proceedings herein
5 and the Parties submission on the Court's tentative ruling and otherwise being fully informed, and
6 having made this Judgment which constitutes a final adjudication of this matter on the merits, and
7 good cause appearing,

8 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:**

9 1. All terms used for purposes of this Order and Judgment, not otherwise defined, shall
10 have the same meaning as given in the PAGA Settlement Agreement ("Settlement") executed
11 between the Parties on March 3, 2022.

12 2. Pursuant to the Labor Code Private Attorneys General Act ("PAGA"), Cal. Lab.
13 Code §§ 2699(1)(2), (1)(4), the Labor Workforce and Development Agency ("LWDA") has been
14 given notice of the Settlement. Pursuant to PAGA, on the date the Plaintiff filed the motion seeking
15 approval of the Settlement with the Court, Plaintiff submitted to the LWDA a notice of the
16 Settlement enclosing a copy of the Settlement. The Court finds and determines that Plaintiff's
17 notice of the Settlement complied with the statutory requirements of PAGA.

18 3. The Court confirms approval of the Settlement as to the following group of
19 individuals, collectively referred to as the "PAGA Settlement Group Members":

20 The eighty-two (482) current and former non-exempt employees of
21 Defendant in California at any time during the period from March
22 10, 2020, to the date that the Court approves this Settlement. The
23 Total Settlement Amount will not be increased unless there is
24 ultimately ten percent (10%) more than the eighty-two (82) total
25 PAGA Settlement Group Members from March 10, 2020, through
26 date on which the Court grants approval of the Settlement (i.e., if
27 the total number of Aggrieved Employees increases to eleven
28 percent (11%), the Settlement Agreement shall increase
proportionately, i.e., by eleven percent (11%) of the Gross
Settlement Amount), and so forth.

26 4. This Court has jurisdiction over the subject matter of this litigation, over all PAGA
27 Settlement Group Members, and over those persons and entities undertaking affirmative
28 obligations under the Settlement.

1 5. The Court finds that the Settlement is, in all respects, fair, reasonable, and adequate.
2 Accordingly, the Court hereby finally and unconditionally approves the Settlement.

3 6. The Court approves the revised Notice to PAGA Settlement Group Members,
4 Exhibit B to the Settlement Agreement, which provides instructions for PAGA Settlement Group
5 Members to dispute and/or correct their Settlement Share before payments are made.

6 7. The Court finds that each PAGA Settlement Group Member, in accordance with the
7 Settlement, releases the following "Released Claims" against the Released Parties.

8 Any and all individual and representative claims under PAGA of
9 whatever kind or nature, whether known or unknown, arising
10 during the Covered Period based on the facts alleged by Plaintiff in
11 the Action and Plaintiff's notice letter to LWDA, including but not
12 limited to claims under Labor Code sections 201-203, 204, 206,
210, 221, 226, 226.7, 510, 512, 1174, 1174.5, 1182.12, 1194,
1194.2, 1197, 1197.1, 1198, 2802, 2810.5, 2698, 2699.3, and
2699.5, the Industrial Welfare Commission Wage Orders, and any
resulting claim for attorneys' fees and costs.

13 8. As to the Released Claims Only, the PAGA Settlement Group Members also waive
14 and relinquish the provisions, rights and benefits of section 1542 of the California Civil Code.

15 9. The Court finds that the Total Settlement Amount, Net Settlement Amount, and the
16 methodology used to calculate and pay each Settlement Share, in accordance with the Settlement,
17 are fair and reasonable.

18 10. The Court authorizes the Settlement Administrator to calculate and pay the
19 Settlement Shares, in accordance with the terms of the Settlement.

20 11. The Court awards the Settlement Administrator in this Action its fees and costs of
21 five thousand dollars (\$5,000.00), in accordance with the terms of the Settlement Agreement.

22 12. The Court awards to Plaintiff's Counsel in this Action its fees of seventy-one
23 thousand six hundred sixty-six dollars (\$71,666.00), in accordance with the terms of the Settlement
24 Agreement.

25 The Court awards to Plaintiff's Counsel in this Action its costs of ten thousand five
26 hundred forty-eight dollars and ninety-two cents (\$10,548.92), in accordance with the terms of
27 the Settlement Agreement.

1 13. The Court approves the allocations and payment of two hundred fifteen thousand
2 dollars (\$215,000.00) as for the compromise of claims brought under PAGA, to be paid in
3 accordance with the terms of the Settlement. Under the terms of the Settlement, seventy five percent
4 (75%) of the Net Settlement Amount will be paid to the State of California Labor Workforce
5 Development Agency ("LWDA Payment"); the remaining amount of the Net Settlement Amount
6 shall be distributed to the PAGA Settlement Group Members in accordance with the terms of the
7 Settlement.

8 14. Checks for the Settlement Shares sent to PAGA Settlement Group Members shall
9 be valid for one hundred eighty (180) days after issuance. Funds remaining from any checks for
10 Settlement Shares uncashed after one hundred eighty (180) days will be disbursed to the California
11 State Controllers' Office Unclaimed Property Fund in the name of the individual PAGA Settlement
12 Group Member for his or her benefit.

13 15. The Court retains exclusive and continuing jurisdiction over this Action for purposes
14 of supervising, administering, implementing, interpreting, and enforcing this Order and Judgment,
15 as well as the Settlement.

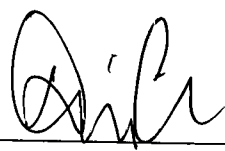
16 16. Nothing in this Order and Judgment or the Settlement shall be construed as an
17 admission or concession by any party. The Settlement and this resulting Order and Judgment simply
18 represent a compromise of disputed allegations.

19 17. Plaintiff is directed to submit a copy of this order to the LWDA within ten (10) days
20 of the date of this Order.

21 18. Within one hundred twenty (120) days of the date of this Order, the Parties are
22 directed to file a joint status report regarding the status of the distribution of settlement proceeds.
23 Upon satisfaction that the appropriate payments have been made, the Court will then close this case.
24

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

26 DATED: 2/22/27

27 
28 Hon. David Cohn
Superior Court Judge