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15 *Attorneys for Plaintiff, the Putative Class, the LWDA, and the Aggrieved Employees*

16 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
17 **FOR THE COUNTY OF SAN DIEGO**

18 JOHANA AVILA TORRES, individually
19 and on behalf of all others similarly situated,

20 Plaintiff,

21 v.

22 GTM WHOLESALE LIQUIDATORS, INC.,
23 a California Corporation, and DOES 1-10,
24 inclusive.

25 Defendant.

ELECTRONICALLY RECEIVED
Superior Court of California,
County of San Diego

03/14/2024 at 03:03:43 PM

Clerk of the Superior Court
By Nora Lopez, Deputy Clerk

FILED
San Diego Superior Court

APR 05 2024

Clerk of the Superior Court
By: K. Mulligan, Deputy

Case No. 37-2021-00051013-CU-OE-CTL

**[PROPOSED] ORDER OF FINAL
APPROVAL AND JUDGMENT**

Date: April 5, 2024

Time: 8:30 a.m.

Dept: C-74

Judge: Hon Blaine K. Bowman

[PROPOSED] ORDER OF FINAL APPROVAL AND JUDGMENT

1 On April 5, 2024 at 8:30 a.m., in Department C-74, the Court heard Plaintiff's Motion for
2 Final Approval of Class Action Settlement and Attorneys' Fees and Costs ("Final Approval
3 Motion").

4 This matter came for hearing upon Plaintiff's unopposed application for final approval of
5 the settlement set forth in the Class Action and PAGA Settlement Agreement ("Settlement"). Due
6 and adequate notice having been given to the Class, and the Court having considered the Settlement,
7 all papers filed, and proceedings had herein and all oral and written comments received regarding
8 the proposed settlement, and having reviewed the record in this Litigation, and good cause
9 appearing,

10 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:**

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

13 2. The Court has jurisdiction over the subject matter of the Litigation, the Class
14 Representative, the other Members of the Class, the Aggrieved Employees, and Defendant.

15 3. The Court further finds that the Settlement satisfies the standards and applicable
16 requirements for final approval of this class action settlement under California law, including the
17 provisions of California Code of Civil Procedure sections 382 and California Rules of Court, Rule
18 3.769, and applicable law.

19 4. For purposes of finally approving the Settlement, this Court finds and concludes that:
20 (a) the Class Members are ascertainable and so numerous that joinder of all members is
21 impracticable; (b) there are questions of law or fact common to the Class, and there is a well-defined
22 community of interest among Class Members with respect to the subject matter of the claims in the
23 action; (c) the claims of the Plaintiff are typical of the claims of the Class Members; (d) the Plaintiff
24 has fairly and adequately protected the interests of the Class Members; (e) a class action is superior
25 to other available methods for an efficient adjudication of this controversy; and (f) the counsel of
26 record for the Plaintiff, i.e., Class Counsel, is qualified to serve as counsel for the Plaintiff in their
27 individual and representative capacity and for the Class.

28 5. The Class is defined and finally certified as Plaintiff and all other California resident

1 warehouse workers who are or were employed by Defendant GTM Wholesale Liquidators, Inc.
2 (“Defendant”) at Defendant’s warehouse and who worked at least one pay period in California
3 during the period from June 10, 2020 to August 10, 2021 (the “Class Period”). Since no individuals
4 excluded themselves from the Settlement, all Class Members are bound by the terms of the
5 Settlement Agreement, and release all of the claims at issue as defined in the Settlement Agreement.

6 6. Solely for purposes of effectuating this settlement, this Court has certified a class of
7 all Members of the Class, as those terms are defined in and by the terms of the Settlement, and the
8 Court deems this definition sufficient for purposes of California Rules of Court 3.765(a) and 3.771.

9 7. The Court finds that the dissemination of the Court Approved Notice of Class Action
10 Settlement and Hearing Date for Final Court Approval (the “Class Notice”), as provided for in the
11 Preliminary Approval Order, constituted the best notice practicable under the circumstances to all
12 persons within the definition of the Class, and fully met the requirements of California law and due
13 process under the United States Constitution. Based on evidence and other material submitted in
14 conjunction with the Final Approval Hearing, the Court finds that the actual notice to the class was
15 adequate.

16 8. The Court finds in favor of final Settlement approval.

17 9. The Court has considered all relevant factors for determining the fairness of the
18 Settlement Agreement and has concluded that all such factors weigh in favor of granting final
19 approval. In particular, the Court finds that the Settlement Agreement was reached following
20 meaningful investigation and informal discovery conducted by Class Counsel; that the Settlement
21 Agreement is the result of informed, adversarial, and arm’s-length negotiations between the Parties;
22 and that the terms of the Settlement Agreement are in all respects fair, adequate, and reasonable. In
23 so finding, the Court has considered all of the evidence presented, including evidence regarding the
24 strength of the Plaintiff’s case; the risk, expense, and complexity of the claims presented; the likely
25 duration of further litigation; the amount offered in the Settlement Agreement; the extent of
26 investigation and discovery completed; and the experience and views of Class Counsel.
27 Accordingly, the Court **FINALLY APPROVES OF AND ENTERS FINAL JUDGMENT** on the
28 terms and conditions contained in the Settlement Agreement as to the Participating Class Members

1 and the Aggrieved Employees. The Court finds that the Settlement is, in all respects, fair,
2 reasonable, adequate, and in the best interests of the Participating Class Members and Aggrieved
3 Employees and hereby directs implementation of all remaining terms, conditions, and provisions of
4 the Settlement Agreement.

5 10. All Participating Class Members are bound by the Release by Participating Class
6 Members as defined in the Settlement Agreement upon the date when Defendant fully funds the
7 entire Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of
8 the Individual Class Payments. As set forth in the Declaration of Lluvia Islas, not a single Class
9 Member requested exclusion from the Settlement.

10 11. All Aggrieved Employees are bound by the Release by Participating and Non-
11 Participating Aggrieved Employees as defined in the Settlement Agreement upon the date when
12 Defendant fully funds the entire Gross Settlement Amount and funds all employer payroll taxes
13 owed on the Wage Portion of the Individual Class Payments.

14 12. Upon the date when Defendant fully funds the entire Gross Settlement Amount and
15 funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, in
16 addition to the Release by Participating Class Members and Release by Participating and Non-
17 Participating Aggrieved Employees, Plaintiff will be bound by Plaintiff's Release as defined in the
18 Settlement Agreement.

19 13. The Court approves the calculation and allocation of the Individual Settlement
20 Payments from the Net Settlement Amount, which shall be distributed to Participating Class
21 Members and Aggrieved Employees in accordance with the formulas set forth in Section 3 of the
22 Settlement.

23 14. Defendant is ordered to make all payments in accordance with the terms of the
24 Settlement through the Settlement Administrator. Defendant is directed to deposit into a Qualified
25 Settlement Account established by the Settlement Administrator the Gross Settlement Amount in
26 the sum of Sixty-Five Thousand Dollars (\$65,000) and all employer payroll taxes owed on the Wage
27
28

1 Portions of the Individual Class Payments no later than fourteen days after the Effective Date¹
2 (“Funding Date”).

3 15. The Court finally approves the following payments from the Gross Settlement
4 Amount (\$65,000.00) and orders the Parties to make the payments in accordance with the Settlement
5 Agreement:

- 6 a. The Individual Settlement Payments to Participating Class Members and Aggrieved
7 Employees;
- 8 b. Class Counsel attorneys’ fees in the amount of \$21,666.66 and approves Class
9 Counsel’s hourly rates;
- 10 c. Class Counsel’s litigation costs in the amount of \$10,000.00;²
- 11 d. A service award of \$5,000.00 to the Class Representative;
- 12 e. The sum of \$4,875.00 to be paid to the California Labor and Workforce Development
13 Agency for its share of the PAGA Penalties (which represents the LWDA’s 75%
14 share of the \$6,500.00 in PAGA Penalties paid); and
- 15 f. \$6,500.00 to the Settlement Administrator, Phoenix Settlement Administrators, for
16 its fees and costs relating to the settlement administration process.

17 The Court finds that these amounts are fair and reasonable.

18 16. Such sums must be paid to Participating Class Members and Aggrieved Employees,
19 the LWDA, Plaintiff, and Class Counsel within fourteen days after Defendant funds the Gross
20 Settlement Amount.

21 17. Individual Settlement Payment checks shall be negotiable for 180 days from the date
22

23 ¹ As defined in the Settlement Agreement and Class Notice, the “Effective Date” means the date by when both of the
24 following have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and
25 (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class
26 Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members
27 objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or (c) if a timely
28 appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.

² The Court preliminarily approved litigation cost reimbursement in the amount of \$10,000, to which no Class Member
objected. Though Class Counsel has incurred and expects to incur \$11,848.44 in actual litigation costs, Class Counsel
is only seeking litigation cost reimbursement in the amount of \$10,000.00 which is the amount contemplated by the
settlement, preliminary approved by this Court, and noticed to the Class.

of issuance. Funds represented by Individual Settlement Payment checks returned as undeliverable and checks remaining un-cashed for more than one-hundred and eighty (180) calendar days after issuance shall be transmitted by the Settlement Administrator to the State of California, Department of the Controller Unclaimed Property Fund in the name(s) of the corresponding Class Member(s) and/or Aggrieved Employee.

18. The Parties shall file a report concerning any uncashed checks or other cash residue by _____ (November 18, 2024 ~~proposed~~). The report shall be in the form of a declaration from the Settlement Administrator and shall describe: (i) the date the checks were mailed, (ii) the total number of checks mailed to class members, (iii) the number of checks that remain uncashed, (iv) the total value of those uncashed checks, and (v) the nature and date of the disposition of those unclaimed funds.

19. The Court sets a compliance hearing for November 22, 2024 at 8:30
a.m. ~~p.m.~~

20. The Court finds that there is no reason for delay and directs the Clerk to enter judgment in accordance with the terms of this Final Approval Order as of the date of this order. By operation of the entry of this Final Approval Order, the Parties and the Participating Class Members are ordered to perform their respective duties and obligations under the Settlement Agreement.

21. Plaintiff is to give notice to all Class Members of this Final Approval Order and Judgment in accordance with California Rule of Court 3.771(b) by filing a Notice of Entry of Judgment of this Final Approval Order and Judgment with the Court.

22. Within 10 days of entry of this Final Approval Order and Judgment, Plaintiff shall provide a copy of this Final Approval Order and Judgment to the LWDA, pursuant to Labor Code Section 2699, subdivisions (1), (3), & (4).

23. Pursuant to the Parties' request, California Code of Civil Procedure section 664.6, and California Rule of Court 3.769(h), the Court retains jurisdiction over this action and the Parties until final performance of the Settlement Agreement.

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1 24. This Final Judgment is intended to be a final disposition of the above captioned
2 action in its entirety and is intended to be immediately appealable.

3 **IT IS SO ORDERED.**

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5
6 DATED: APR 05 2024


Honorable Blaine K. Bowman
Judge of the Superior Court