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CLERK OF THE SUPERIOR COURT
BY  DEPUTY

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6 SUPERIOR COURT OF THE STATE OF CALIFORNIA

7 FOR THE COUNTY OF MERCED

8
9 ELISEO OCHOA, as an individual and on behalf
of all others similarly situated,

10
11 Plaintiff,

12 vs.

13 VIEIRA AGRICULTURAL ENTERPRISES,
LLC, a California limited liability company; and
14 DOES 1 through 100, inclusive,

15 Defendants.
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Case No. 21CV-02299

[Assigned for all purposes to the Hon.
Brian L. McCabe, Dept. 08]


~~PROPOSED~~ FINAL ORDER OF
APPROVAL OF CLASS ACTION
SETTLEMENT AND FINAL
JUDGEMENT

Complaint Filed: July 14, 2021
Trial Date: None Set

1 This matter came on regularly for hearing before this Court on September 15, 2023, at
2 8:15 a.m. pursuant to California Rule of Court 3.769; this Court's April 14, 2023 Order Granting
3 Motion for Preliminary Approval of Class Action Settlement ("Preliminary Approval Order");
4 and, this Courts Minute Order Granting Preliminary Approval of Class Action Settlement
5 ("Minute Order re Preliminary Approval"). Having considered the Parties' Stipulation of Class
6 and PAGA Settlement (the "Settlement" or "Settlement Agreement") attached as Exhibit A to the
7 Declaration of Daniel J. Brown In Support of Plaintiff's Motion for Preliminary Approval of
8 Settlement, filed on March 21, 2023, and the submissions of counsel, and recognizing the sharply
9 disputed factual and legal issues involved in this case, the risks of further prosecution and the
10 benefits to be received by the Class pursuant to the Settlement, the Court hereby makes a final
11 ruling that the proposed Settlement is fair, reasonable, and adequate, and is the product of good
12 faith, arm's-length negotiations between the Parties.

13 Unless otherwise indicated, all terms used in this Order shall have the same meaning as
14 that assigned to them in the Settlement.

15 Good cause appearing thereof, the Court hereby GRANTS Plaintiff's Motion for Final
16 Approval of Class Action Settlement and ORDERS as follows:

17 1. The conditional class certification contained in the Preliminary Approval Order is
18 hereby made final, and the Court thus certifies, for purposes of the Settlement only, a Settlement
19 Class consisting of:

20 All current and former non-exempt employees of Defendant Vieira Agricultural
21 Enterprises, LLC who worked for Defendant Vieira Agricultural Enterprises, LLC in
22 California from July 14, 2017, up to November 30, 2022 (the "Class Period").

23 2. Plaintiff Eliseo Ochoa is hereby confirmed as Class Representative, and Daniel J.
24 Brown of Stansbury Brown Law, PC is hereby confirmed as Class Counsel.

25 3. Notice was provided to the Settlement Class as set forth in the Settlement, which
26 was preliminarily approved by the Court on April 14, 2023, and the notice process has been
27 completed in conformity with the Court's Preliminary Approval Order. The Court finds that said
28 notice was the best notice practicable under the circumstances. The Class Notice provided due

1 and adequate notice of the proceedings and matters set forth herein, informed Class Members of
2 their rights, and fully satisfied the requirements of California Code of Civil Procedure § 1781(e),
3 California Rule of Court 3.769, and due process.

4 4. The Court finds that no Class Member objected to the Settlement and only four
5 Class Members opted-out of the Settlement, and that the 99.84% participation rate in the
6 Settlement supports final approval. The employee identification numbers of the four (4)
7 individuals who opted out are: V3019, V2942, V4522 and V1052.

8 5. The Court hereby approves the settlement as set forth in the Settlement as fair,
9 reasonable, and adequate, and directs the Parties to effectuate the Settlement according to its
10 terms.

11 6. For purposes of settlement only, the Court finds that (a) the members of the
12 Settlement Class are ascertainable and so numerous that joinder of all members is impracticable;
13 (b) there are questions of law or fact common to the Settlement Class, and there is a well-defined
14 community of interest among members of the Settlement Class with respect to the subject matter
15 of the litigation; (c) the claims of the Class Representative are typical of the claims of the members
16 of the Settlement Class; (d) the Class Representative has fairly and adequately protected the
17 interests of the Class Members; (e) a class action is superior to other available methods for an
18 efficient adjudication of this controversy; and (f) Class Counsel are qualified to serve as counsel
19 for the Class Representative and the Settlement Class.

20 7. The Court finds that given the absence of objections, and objections being a
21 prerequisite to appeal, that this Order and Judgment shall be considered final as of the date of
22 notice of entry.

23 8. The Court orders that the Maximum Settlement Amount of One Million Five
24 Hundred Thousand Dollars and Zero Cents (\$1,500,000.00) shall be deposited with the Settlement
25 Administrator, Phoenix Settlement Administrators ("Phoenix"), as provided in the Settlement.

26 9. Any Settlement funds that remain uncashed after 180 days after they are mailed
27 shall be distributed to Boys & Girls Clubs of Merced County.

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1 10. The Court finds that the Participating Member Payments, as provided for in the
2 Settlement, are fair, reasonable, and adequate, and orders the Settlement Administrator to
3 distribute the Participating Member Payments in conformity with the terms of the Settlement. The
4 Court further orders that if any of the Settlement Class Members are Defendant's current
5 employees and the Participating Member Payment mailed to those current employees is returned
6 to the Settlement Administrator as being undeliverable, and the Settlement Administrator is
7 unable to locate a valid mailing address, the Settlement Administrator shall arrange with
8 Defendant Vieira Agricultural Enterprises, LLC to have those Participating Member Payments
9 delivered to the employees at their place of employment.

10 11. The Court finds that an Enhancement Payment in the amount of \$7,500.00 for
11 Plaintiff Eliseo Ochoa is appropriate for his risks undertaken and service to the Settlement Class.
12 The Court finds that this payment is fair, reasonable, and adequate, and orders that the Settlement
13 Administrator make this payment in conformity with the terms of the Settlement.

14 12. The Court approves Plaintiff's request for attorney fees representing 35% of
15 \$1,500,000.00 and \$15,980.35 for actual litigation costs incurred, as forth in the settlement and
16 class notice, and Orders the Settlement Administrator to pay Class Counsel \$525,000.00 in
17 attorneys' fees and \$15,980.35 for Class Counsel's costs, and orders Settlement Administrator
18 to distribute these payments to Class Counsel in conformity with the terms of the Settlement and
19 by no later than the date that the Settlement Administrator disperses Participating Member
20 Payments.

21 13. The Court finds that a payment to the Labor & Workforce Development Agency
22 ("LWDA") in the amount of \$15,000.00 for the LWDA's share of civil penalties under the Labor
23 Code Private Attorneys General Act is fair, reasonable, and adequate, and orders that the
24 Settlement Administrator make this payment in conformity with the terms of the Settlement.

25 14. The Court orders that the Settlement Administrator shall be paid \$25,000.00 from
26 the Maximum Settlement Amount for all of its work done and to be done until the completion of
27 this matter, and finds that sum appropriate.

1 15. Pursuant to the terms of Settlement, the employer's share of payroll taxes for the
2 portion of the Net Settlement Amount allocated to wages shall be paid by Vieira Agricultural
3 Enterprises, LLC, separately, and in addition to, the Maximum Settlement Amount.

4 16. The Court finds and determines that upon satisfaction of all obligations under the
5 Settlement and this Order, all Settlement Class Members, except employees V3019, V2942,
6 V4522 and V1052, who submitted valid requests for exclusion, will be bound by the Settlement
7 and will have released all claims in the Class Release, as set forth in the Settlement.

8 17. Settlement is not an admission by Defendant, nor is this Order and Final Judgment
9 a finding of the validity of any allegations or of any wrongdoing by Defendant. Neither this Order
10 and Final Judgment, the Settlement, nor any document referred to herein, nor any action taken to
11 carry out the Settlement, shall be construed or deemed an admission of liability, culpability, or
12 wrongdoing on the part of Defendant.

13 18. As of the date of this Order and Final Judgment, Plaintiff and every member of the
14 Settlement Class, except employees V3019, V2942, V4522 and V1052 who submitted valid
15 requests for exclusion, shall be deemed to have released and discharged Vieira Agricultural
16 Enterprises, LLC, and all of its past or present owners, officers, directors, shareholders, members,
17 executives, partners, employees, insurers, managers, agents, representatives, predecessors, and
18 successors, including Manuel E. Vieira, Inc. and A.V. Thomas Produce, Inc., and each of their
19 respective past or present owners, officers, directors, shareholders, members, executives, partners,
20 employees, insurers, managers, agents, representatives, predecessors, and successors (collectively
21 the "Released Parties") from all claims, both potential and actual, that were or may have been
22 raised based on the facts pled in the FAC that arose during the Class Period ("Released Class
23 Claims"), including claims under Labor Code §§ 118.12, 201, 202, 203, 204, 205, 226, 226.7,
24 510, 512, 516, 558, 1174, 1182.12, 1194, 1194.2, 1197, 1198, 2802, 2804, 2698, 2699.3; Wage
25 Order 14, §§ 3, 4, 7, 11, 12 and Business & Professions Code § 17200 *et seq.*; Civil Code §§ 3287
26 and 3289 and Code of Civil Procedure § 1021.5 and all claims both potential and actual, that were
27 or may have been raised based on the facts pled in the FAC for minimum wage violations,
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overtime wage violations, meal period violations, rest period violations, failure to reimburse for necessary business expenses, wage statement violations, waiting time penalties and unfair competition ("Class Release").

Plaintiff and the representative group of allegedly aggrieved employees composed of all non-exempt employees employed by Defendant in California ("Aggrieved Employees") at any time from July 14, 2020 up to November 30, 2022 (the "PAGA Period") will not have the opportunity to opt out or object to the PAGA Amount, as described in sections 2(C) and 6(E)(i) of the Settlement, and/or release of PAGA claims set forth in the Settlement. As of the date of this Order and Final Judgment, Plaintiff and every Aggrieved Employee shall be deemed to have released and discharged Vieira Agricultural Enterprises, LLC, and all of its past or present owners, officers, directors, shareholders, members, executives, partners, employees, insurers, managers, agents, representatives, predecessors, and successors, including Manuel E. Vieira, Inc. and A.V. Thomas Produce, Inc., and each of their respective past or present owners, officers, directors, shareholders, members, executives, partners, employees, insurers, managers, agents, representatives, predecessors, and successors (collectively the "Released Parties") from all PAGA claims, both potential and actual, that were or may have been raised based on the facts pled in the FAC or the PAGA Letter that arose during the PAGA Period ("Released PAGA Claims"), including claims under Labor Code §§ 118.12, 201, 202, 203, 204, 205, 226, 226.7, 510, 512, 516, 558, 1174, 1182.12, 1194, 1194.2, 1197, 1198, 2802, 2804, 2698, 2699.3; and Wage Order 14, §§ 3, 4, 7, 11, 12 and all claims both potential and actual, that were or may have been raised based on the facts pled in the FAC or the PAGA Letter for minimum wage violations, overtime wage violations, meal period violations, rest period violations, failure to reimburse for necessary business expenses, wage statement violations, waiting time penalties and unfair competition ("PAGA Release").

Notwithstanding the paragraphs above nor anything else in the Settlement, Plaintiff's waiver and release in the Settlement does not apply to (i) those rights that as a matter of law cannot be waived, including, but not limited to, workers' compensation claims, pending or

1 otherwise; and (ii) his rights to enforce the terms of Settlement.

2 19. The releases identified herein shall be null and void should the Settlement not be
3 fully funded.

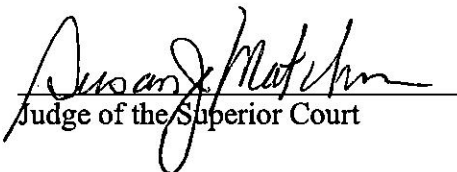
4 20. This document shall constitute a final judgment pursuant to California Rule of
5 Court 3.769(h) which provides, "If the court approves the settlement agreement after the final
6 approval hearing, the court must make and enter judgment. The judgment must include a
7 provision for the retention of the court's jurisdiction over the parties to enforce the terms of the
8 judgment. The court may not enter an order dismissing the action at the same time as, or after,
9 entry of judgment." Pursuant to section 664.6 of the California Code of Civil Procedure, the
10 Court will retain jurisdiction to enforce the Settlement and this Final Order and Judgment.

11 21. Settlement Class Members and Aggrieved Employees will receive notice of this
12 Order and Final Judgement with their Settlement Awards. Notice of this Order and Final
13 Judgement will also be posted for at least 60 days on the Settlement Administrator's website.

14 22. (Non-Appearence) Final Compliance Hearing is set for 9/29/2025 at 8:15 am
15 in Department 8. The Settlement Administrator shall file a declaration regarding the
16 disbursement of Settlement Funds on or before 8/29/2025.

17 **IT IS SO ORDERED. JUDGMENT IS HEREBY ENTERED.**

18 Dated: 9/15, 2023

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Judge of the Superior Court