

1 **MAYALL HURLEY P.C.**
2 **ROBERT J. WASSERMANN (SBN: 258538)**
3 rwassermann@mavallaw.com
4 **JOHN P. BRISCOE (SBN: 273690)**
5 jbriscoe@mavallaw.com
6 **112 S. Church St.**
7 **Lodi, California 95242**
8 **Telephone: (209) 477-3833**
9 **Facsimile: (209) 473-4818**

Attorneys for Plaintiff Jessica Collard and the Putative Class

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF HUMBOLDT

JESSICA COLLARD,

Plaintiff,

v.

**MURPHY’S MARKETS, INC., a
corporation; and DOES 1-100, inclusive,**

Defendants.

Case No.: CV2101368

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
AND REPRESENTATIVE ACTION
SETTLEMENT**

Date: July 24, 2023

Time: 10:30 a.m.

Dept.: 4

WHEREAS, Plaintiff Jessica Collard (“Plaintiff” or “Collard”), individually and in her representative capacity, and Defendant Murphy’s Markets, Inc. (“Defendant”), have reached a proposed settlement of the class claims alleged in the above-captioned action (the “Settlement” or “Settlement Agreement”).

WHEREAS, Plaintiff has moved the Court for preliminary approval of the proposed Settlement on the terms and conditions set forth in the Class and Representative Action Settlement Agreement and Release (“Settlement Agreement”), and for preliminary and conditional class certification;

AND NOW, the Court having reviewed and considered the Settlement Agreement, the Motion for Preliminary Approval of Class Action Settlement, the supporting Memorandum of Points and Authorities, the Declaration of John P. Briscoe (with exhibits), and the proposed Notice of

1 Proposed Class Action Settlement, IT IS HEREBY ORDERED, ADJUDGED and DECREED as
2 follows:¹

3 1. For purposes of settlement only, the following Settlement Class is preliminarily and
4 conditionally certified:

5 All current and former nonexempt employees who worked directly for Murphy's
6 Markets, Inc. in California at any time from September 23, 2017 through January
7 31, 2023.

8 2. For distribution purposes, the following Former Employee Subclass is preliminarily and
9 conditionally certified:

10 All former nonexempt employees who worked directly for Murphy's Markets, Inc.
11 in California at any time from September 23, 2018 through January 31, 2023.

12 The Court finds, for purposes of settlement only, that the requirements of California Rules of
13 Court, Rule 3.769 and California Code of Civil Procedure section 382 are satisfied and accordingly
14 certifies the Settlement Class. Specifically, the Court finds: (1) members of the Settlement Class are
15 too numerous to be joined individually; (2) there are questions of law and fact common to the
16 Settlement Class; (3) the claims of Plaintiff as class representative are typical of the claims of the
17 Settlement Class Members; and (4) Plaintiff and Settlement Class Counsel will fairly and adequately
18 protect the interests of the Settlement Class. The Court also finds that questions of law or fact
19 common to members of the Settlement Class predominate over any questions affecting only
20 individual members and a class action is superior to other available methods for the fair and efficient
21 adjudication of the controversy.

22 3. Plaintiff Jessica Collard is approved as class representative.

23 4. Mayall Hurley P.C., by and through Robert J. Wassermann and John P. Briscoe are
24 hereby appointed as Class Counsel.

25 5. The Court finds on a preliminary basis that the Settlement Agreement, attached as
26 **Exhibit 1** to the Declaration of John P. Briscoe and incorporated herein by this reference and made a

27 _____
28 ¹This Order of Preliminary Approval incorporates the terms of the Settlement Agreement and all capitalized terms used
herein shall have the meanings defined in the Settlement Agreement.

1 part of this Order of Preliminary Approval, appears to be within the range of reasonableness of
2 settlement which could ultimately be given final approval by this Court; it further appears to the
3 Court on a preliminary basis that the settlement amount is fair and reasonable to Settlement Class
4 Members when balanced against the probable outcome of further litigation, liability and damages
5 issues; it further appears that significant investigation and research has been conducted and that
6 counsel for the parties at this time are able to reasonably evaluate substantial costs, delay and risks
7 that would be presented by the further prosecution of the litigation; it further appears that the proposed
8 Settlement has been reached as the result of intensive, serious and non-collusive, arms-length
9 negotiations.

10 6. The Court finds that the proposed Notice of Proposed Class Action Settlement and
11 Hearing Date for Final Court Approval of Settlement (“Class Notice”), attached as Exhibit A to the
12 Settlement Agreement (and as Exhibit 2 to the Declaration of John P. Briscoe), and incorporated
13 herein by this reference and made a part of this Order of Preliminary Approval, fairly and adequately
14 appraises Settlement Class Members of the pendency of the Action, the terms of the proposed
15 Settlement, the options available to them thereunder, including their rights to participate, opt-out
16 and/or object, as well as the procedures and timing for doing so. The Court further finds that the
17 Class Notice clearly comports with all constitutional requirements including those of due process.

18 7. Phoenix Settlement Administrators is appointed as the Administrator and shall
19 administer the Settlement in accordance with the terms set forth in the Settlement Agreement and
20 perform the functions set forth therein. Administration costs of up to \$9,000 are approved.

21 8. Defendant is ordered to provide the Class List to the Administrator within 10 calendar
22 days of the issuance of this Order of Preliminary Approval.

23 9. The Administrator is to mail the Class Notice to the Class Members within 10
24 calendar days of its receipt of the Class List.

25 10. Subject to further consideration by the Court at the time of the Final Approval
26 Hearing, the requested fees and costs of Class Counsel (one-third of the Maximum Settlement
27 Amount, or \$133,333 in attorneys’ fees, and costs of suit in an amount not to exceed \$20,000) and
28

1 the requested Class Representative Incentive Payment to Plaintiff (\$7,500) are preliminarily
2 approved.

3 11. Subject to further consideration by the Court at the time of the Final Approval
4 Hearing, the proposed settlement for claims for civil penalties under the Private Attorneys General
5 Act, in the gross amount of \$40,000 (part of the Maximum Settlement Amount), is approved as fair
6 and reasonable.

7 12. The Final Approval Hearing shall be held in Department 4 in this Court, on
8 _____, 2023 at _____, as set forth in the Class Notice, to determine the fairness,
9 reasonableness and adequacy of the Settlement and whether it should be approved finally by the
10 Court. The Final Approval Hearing may be postponed, adjourned, or rescheduled by order of the
11 Court without further notice to the class.

12 13. Any party to this Action, including Settlement Class Members, may appear at the
13 final hearing in person or by counsel, and may be heard to the extent allowed by the Court, in
14 support of or in opposition to, the Court's determination of the good faith, fairness, reasonableness
15 and adequacy of the proposed Settlement, the proposed Service Award, Class Counsel's requested
16 attorneys' fees and costs, and any order of final approval regarding such Settlement; provided,
17 however, that no person, except Settlement Class Counsel and counsel for Defendants, shall be heard
18 in opposition to such matters unless such person has complied with the conditions set forth in the
19 Class Notice.

20 The parties to the Agreement are directed to carry out their obligations under the Settlement
21 Agreement.

22 IT IS SO ORDERED.

23 DATE: _____, 2023

24 _____
Judge of the Superior Court

PROOF OF SERVICE

I, the undersigned, certify and declare as follows:

I am over the age of eighteen years and not a party to this action. My business address is 112 S. Church Street, Lodi, California 95240 that is located in the county where the mailing and/or delivery below took place.

On June 23, 2023, I served the following document:

**[PROPOSED] ORDER GRANTING PRELIMINARY APPROVAL OF CLASS
AND REPRESENTATIVE ACTION SETTLEMENT**

addressed to:

Laurie E. Yoon
Murchison & Cumming LLP
Mt. Diablo Plaza
2175 N. California Blvd., Ste. 900
Walnut Creek, CA 94596
Lyoon@murchisonlaw.com
Ken H. Moreno
kmoreno@murchisonlaw.com

☐ **BUSINESS PRACTICE TO ENTRUST DEPOSIT TO OTHERS:** I am readily familiar with the business practice at my place of business for collection and processing of correspondence for mailing with the United States Postal Service. Correspondence so collected and processed is deposited with the United States Postal Service that same day in the ordinary course of business. On the date specified below, at my place of business at Stockton, California a copy of the document described above was placed for deposit in the United States Postal Service in a sealed envelope, with postage fully prepaid addressed to the individuals and/or entities mentioned above; and that envelope was placed for collection and mailing on that date following ordinary business practice.

☐ **BY EXPRESS SERVICE CARRIER:** On the date specified below, I directed to be deposited in a box or other facility regularly maintained by Federal Express or delivered to a courier or driver authorized by said express service carrier to receive documents, a copy of the document mentioned above, in an envelope designed by the said express service carrier, with delivery fees paid or provided for, addressed to the individuals and/or entities mentioned above.

☒ **BY EMAIL:** In accordance with Code of Civil Procedure, Section 1010.6, on the date specified below, I caused a copy of the document described above to be sent to the person(s) at the e-mail address(es) listed above. My business e-mail address is riley@mayallaw.com.

I certify and declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on June 23, 2023, at Lodi, California.


LINDSAY RILEY SHIELDS