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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO

LAURA BARBOZA and DAMON POTTER,
individually, on a representative basis, and on
behalf of all others similarly situated;

Plaintiffs,

v.

RUDOLPH FOODS COMPANY, INC., an
Ohio Corporation; and DOES 1 through 20,
inclusive;

Defendants.

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

AUG 23 2023

Jessica Garcez
JESSICA GARCEZ, DEPUTY

Case No.: CIVSB2129090
[Assigned to the Hon. Joseph T. Ortiz, Dept.
S17, for all purposes]

**[PROPOSED] ORDER GRANTING
FINAL APPROVAL OF SETTLEMENT;
AND ENTRY OF JUDGMENT**

[PROPOSED] ORDER GRANTING FINAL APPROVAL OF SETTLEMENT; ENTRY OF JUDGMENT

1 The Motion for Final Approval of the Settlement (the "Final Approval Motion") as set
2 forth in the Class Action and PAGA Settlement Agreement and Release of Claims ("Settlement
3 Agreement") came for a hearing in Department S17 of the above-entitled court. The Final
4 Approval Motion was unopposed by Defendant Rudolph Foods Company, Inc. ("Defendant").

5 Having considered the Final Approval Motion, the Settlement Agreement, the
6 Declarations, and all other materials properly before the Court and having conducted an inquiry
7 pursuant to California Rules of Court, rule 3.769(g), the Court finds that the Settlement
8 Agreement was entered by all parties in good faith, and the Settlement Agreement is approved.
9 Due and adequate notice having been given to the Class, and the Court having considered the
10 Settlement Agreement, all papers filed and proceedings had herein and all oral and written
11 comments received regarding the proposed settlement, and having reviewed the record in this
12 Action, and good cause appearing,

13 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:

14 1. The Court, for purposes of this Judgment and Order ("Judgment"), refers to all
15 defined terms (i.e., terms with initial capitalization) as set forth in the Settlement Agreement.

16 2. The Court has jurisdiction over the subject matter over this Action, the
17 Plaintiffs/Class Representatives Laura Barboza and Damon Potter, the Class Members, and
18 Defendant.

19 3. The Court finds that the distribution of the Class Notice, as provided for in the
20 Order Granting Preliminary Approval for the Settlement, constituted the best notice practicable
21 under the circumstances to all Class Members and fully met the requirements of California law
22 and due process under the California and United States Constitution. Based on evidence and
23 other material submitted, the actual notice to the class was adequate.

24 4. The Court finds that the instant Action presented a good faith dispute of the
25 claims alleged, and the Court finds in favor of settlement approval.

26 5. The Settled Class Claims on behalf of the Participating Class Members included:

27 All causes of action and claims, charges, complaints, liens,
28 demands that were alleged in the Consolidated Complaint or
reasonably could have been alleged based on the allegations, the
facts, statutory citation and/or legal theories contained in the

1 Consolidated Complaint, including all of the following claims for
2 relief: (a) failure to pay minimum wages, (b) failure to pay for all
3 hours worked, including overtime wages, (c) failure to provide
4 compliant meal periods, (d) failure to provide compliant rest
5 breaks, (e) failure to timely pay wages, including final wages, (f)
6 failure to provide accurate itemized wage statements, (g) unfair
7 and unlawful competition, (h) failure to provide proper cool-down
8 rest periods, (i) failure to provide suitable seating, (j) failure to
9 reimburse for required business expenses, (k) failure to pay all
10 required sick pay, (l) failure to provide safe and healthful working
11 conditions; and (m) all other claims for statutory penalties based on
12 the facts or claims alleged in the Consolidated Complaint (the
13 "Settled Class Claims"). These claims and their related recovery
14 provisions include, but are not limited to, California Labor Code
15 sections 200, 201, 202, 203, 204, 212, 213, 218, 218.5, 226, 226.3,
16 226.7, 227.3, 246, 510, 512, 558, 558.1, 1174, 1175, 1194, 1194.2,
17 1197, 1197.1, 1197.2, 1198, 1199, 2800, 2802 and all related
18 provisions of the California Code of Regulations, California
19 Industrial Wage Orders, California Health and Safety Code
20 sections 6400 *et seq.*, and California Business & Professions Code
21 sections 17200 *et seq.* The release of the foregoing claims extends
22 to all theories of relief regardless of whether the claim is, was or
23 could have been alleged as separate claims, causes of action,
24 lawsuits or based on other theories of relief, or different right or
25 duty of an alleged statute, whether under federal law, state law or
26 common law (including, without limitation, as violations of the
27 California Labor Code, Industrial Wage Orders, applicable
28 regulations, California Health and Safety Code, and California
Business and Professions Code). "Settled Class Claims" includes
all types of relief available for the above-referenced claims,
including, without limitation, any claims for damages, restitution,
losses, penalties, fines, liens, attorneys' fees, costs, expenses,
debts, interest, injunctive relief, declaratory relief, or liquidated
damages.

6. The Settled PAGA Claims on behalf of the PAGA Members included:

All claims for civil penalties under the Private Attorneys General Act, Labor Code § 2698 *et seq.*, that Plaintiffs alleged against the Released Parties, on behalf of PAGA Members and State of California, based on the facts stated in the Consolidated Complaint and in Plaintiffs' notice letters to the LWDA (including any amendments thereto), or reasonably could have been alleged based on the allegations, the facts, statutory citation and/or legal theories under the PAGA contained in the Consolidated Complaint, including, but not limited to, all of the following claims for relief: (a) failure to pay minimum wages, (b) failure to pay for all hours

1 worked, including overtime wages, (c) failure to provide compliant
2 meal periods, (d) failure to provide compliant rest breaks, (e)
3 failure to timely pay wages each period and upon separation of
4 employment, (f) failure to provide accurate itemized wage
5 statements and violation of recordkeeping requirements, (g) failure
6 to provide safe and healthful working conditions, (h) failure to
7 provide proper cool-down rest periods, (i) failure to provide
8 suitable seating, (j) failure to reimburse for required business
9 expenses, (k) failure to pay all required sick pay, and (l) all other
10 claims for PAGA penalties based on the facts or claims alleged in
11 the Consolidated Complaint. These claims and their related
12 recovery provisions include, but are not limited to, California
Labor Code sections 200, 201, 202, 203, 204, 212, 213, 218, 218.5,
226, 226.3, 226.7, 227.3, 246, 510, 512, 558, 558.1, 1174, 1175,
1194, 1194.2, 1197, 1197.1, 1197.2, 1198, 1199, 2800, and 2802
and all related provisions of the California Code of Regulations,
the California Industrial Wage Orders, and California Health and
Safety Code sections 6400 *et seq.* The time period governing the
Settled PAGA Claims shall be any time during the PAGA Period.

13 7. There were no Objections to the Settlement, and no Requests for Exclusion.

14 Thus, all Class Members are Participating Class Members, who are entitled to an Individual
15 Class Payment pursuant to the Settlement and this Judgment. Likewise, all PAGA Members are
16 entitled to an Individual PAGA Payment, constituting a pro rata share of PAGA Penalties.

17 8. The Court approves the Settlement, as set forth in the Settlement Agreement and
18 each of the releases and other terms, as fair, just, reasonable, and adequate as to the Settling
19 Parties. The Parties are directed to perform in accordance with the terms set forth in the
20 Settlement Agreement.

21 9. The Parties are to bear their own costs, except as otherwise provided in the
22 Settlement Agreement.

23 10. For purposes of effectuating this Order and Judgment, this Court has certified the
24 following class: "All current and former non-exempt workers who worked at any Rudolph Foods
25 location in California at any time during the Class Period of June 14, 2017, through December
26 20, 2022." The Court deems this definition sufficient for purposes of California Rules of Court,
27 rule 3.765(a).
28

1 11. With respect to the Class and for purposes of approving this Settlement, this Court
2 finds and concludes as follows: (a) the Class Members are ascertainable and so numerous that
3 joinder of all members is impracticable; (b) there are questions of law or fact common to the
4 Class Members, and there is a well-defined community of interest among the Class Members
5 with respect to the subject matter of the Action; (c) the claims of the Class Representatives are
6 typical of the claims of the Class Members; (d) the Class Representatives have fairly and
7 adequately protected the interests of the Class Members; (e) a class action is superior to other
8 available methods for an efficient adjudication of this controversy; and (f) the counsel of record
9 for the Class Representatives, i.e., Class Counsel, are qualified to serve as counsel for the
10 Plaintiffs in their individual and representative capacity and for the Class.

11 12. By this Judgment, the Class Representatives shall release, relinquish, and
12 discharge, and each of the Participating Class Members shall be deemed to have, and by
13 operation of the Judgment shall have, fully, finally, and forever released, relinquished, and
14 discharged all Settled Class Claims, as defined in the Settlement Agreement.

15 13. Neither the Settlement Agreement nor the Settlement contained therein, nor any
16 act performed or document executed pursuant to or in furtherance of the Settlement Agreement
17 or the Settlement (i) is or may be deemed to be or may be used by the Class Representatives or
18 Participating Class Members as an admission of, or evidence of, the validity of any of the Settled
19 Class Claims, or of any wrongdoing or liability of Defendant or any of the other Released
20 Parties; or (ii) is or may be deemed to be or may be used by any of the Class Representatives or
21 Participating Class Members as an admission of, or evidence of, any fault or omission of
22 Defendant or any of the other Released Parties in any civil, criminal, or administrative
23 proceeding in any court, administrative agency, or other tribunal. Defendant or any of the other
24 Released Parties may file the Settlement Agreement and/or the Judgment from this Action in any
25 other action that may be brought against it or them in order to support a defense or counterclaim
26 based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment
27 bar or reduction, or any theory of claim preclusion or issue preclusion or similar defense or
28 counterclaim.

1 14. The Gross Settlement Amount to be paid under the Settlement Agreement is
2 \$1,250,000. From this amount, Class Counsel sought a Class Counsel Fee Payment of
3 \$416,666.67, Class Counsel's litigation expenses of \$19,882.96, a Service Payment to Class
4 Representatives Laura Barboza and Damon Potter of \$10,000 each, an Administrator Expenses
5 Payment of \$11,164.36 to Phoenix Settlement Administrators, and \$37,500 to the LWDA for
6 PAGA penalties and \$12,500 to the PAGA Members for PAGA Penalties. Defendant does not
7 oppose these requests. In addition, and concurrently with paying the Settlement Amount,
8 Defendant shall separately pay all employer payroll taxes owed on the Wage Portion of the
9 Individual Class Payments, which shall be reported through the Settlement Administrator. The
10 Court finds that the Settlement Amount is fair, reasonable and adequate, and awards the
11 payments set forth below from the Settlement Amount:

12 A) \$416,666.67 to Class Counsel for Class Counsel Fee Payment in light of
13 the benefit obtained on behalf of the Class, which shall be divided 60% to Lauby Mankin
14 Lauby LLP, and 40% to Koul Law Firm and the Law Offices of Sahag Majarian II;

15 B) \$19,882.96 to Class Counsel's litigation costs, which shall be allocated as
16 \$14,576.85 to Lauby Mankin Lauby LLP and \$5,306.11 to Koul Law Firm;

17 C) \$10,000 each to Class Representatives Laura Barboza and Damon Potter
18 as a Service Award;

19 D) \$11,164.36 to the Settlement Administrator, Phoenix Settlement
20 Administrators;

21 E) \$37,500 to the LWDA;

22 F) \$12,500 to the PAGA Members on a pro rata basis;

23 G) After deducting the foregoing payments from the Gross Settlement
24 Amount, the remainder shall form the Net Settlement Amount payable to the
25 Participating Class Members as set forth in the Settlement Agreement and as calculated
26 by the Settlement Administrator.

27 15. The Settlement Administrator is directed to calculate the Participating Class
28 Member's Individual Class Payments and the PAGA Members' Individual PAGA Payments and

1 issue all payments within in accordance with the Settlement Agreement and this
2 Order/Judgment.

3 16. Concurrently with mailing the settlement checks to the Participating Class
4 Members and PAGA Members, the Settlement Administrator shall include a Notice of Entry of
5 Judgment to all Class Members either on a postcard or as a detachable portion of the check for
6 the Participating Class Members, noting the following: "Please be advised that on [insert date],
7 2023, the Superior Court of California for the County of San Bernardino entered Judgment in the
8 case entitled *Barboza v. Rudolph Foods Company, Inc., et al.*, pending in Superior Court of the
9 State of California, County of San Bernardino, Case No. CIVSB2129090, on behalf of all current
10 and former non-exempt workers who worked at any Rudolph Foods location in California at any
11 time during the Class Period of June 14, 2017, through December 20, 2022."

12 17. The Class Members shall have 180 days to negotiate the settlement check from
13 the date of issuance by the Settlement Administrator. In the event that a Participating Class
14 Member or PAGA Member does not negotiate his/her check within this time period, the check
15 will be canceled. The value of the unclaimed funds in the Settlement Administrator's account as
16 a result of a failure to timely cash a settlement check shall be issued to the State Controller's
17 Office for the State of California in the name of the person.

18 18. For all PSSG Temporary Employees who do not verify their status as a Class
19 Member by the end of the 180 check cashing period, pursuant to the Court's June 20, 2023 Order
20 and the newspaper ad informing PSSG Temporary Employees of the Settlement, their funds shall
21 be transmitted to the following cy pres within 30 days of the check cashing deadline: Public
22 Justice (www.publicjustice.net).
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1 19. The following dates shall govern for purposes of this implementing this
2 Order/Judgment:

3 August 23, 2023	The Final Order is entered and the Effective Date occurs.
4 September 7, 2023	Defendant shall wire the Gross Settlement Amount, plus its share of payroll taxes, to the Settlement Administrator.
5 September 18, 2023	Settlement Administrator to issue all Individual Class Payments to the Participating Class Members, Individual PAGA Payments to the PAGA Members, payment to Class Counsel for the Class Counsel Fee Payment and Litigation Expenses, the Service Payment to the Class Representative, the payment to the LWDA for PAGA Penalties, and pay itself the Administrator Expenses Payment.
6 180 days after payment is issued (approximately March 16, 2024)	Deadline for Participating Class Members and PAGA Members to cash checks.
7 April 15, 2024	Deadline for the Settlement Administrator to transmit all unclaimed funds allocated to PSSG Temps to the designed cy pres.
8 April 30, 2024	Counsel to file a declaration from the Settlement Administrator setting forth the disbursements that were actually made, including any uncashed checks and status of process of forwarding unclaimed funds to the State Controller.
9 Date: <u>May 20</u> , 2024	OSC hearing re: status of disbursements.
10 Time: <u>8:30</u>	

1 20. This document shall constitute a Judgment for purposes of California Rule of
2 Court 3.769(h). The Court reserves exclusive and continuing jurisdiction over the Action, the
3 Class Representatives, the Class Members, and Defendant for the purposes of supervising the
4 implementation, enforcement, construction, administration, and interpretation of the Settlement
5 Agreement and this Judgment.

6 IT IS SO ORDERED.

7
8 Dated: 8/23/23



HON. JOSEPH T. ORTIZ
JUDGE OF THE SUPERIOR COURT