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FILED
ALAMEDA COUNTY

JUL 27 2023

CLERK OF THE SUPERIOR COURT

By

Nicole Hall

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA

SAMYRA MCCREA, individually, and on
behalf of other members of the general public
similarly situated;

Plaintiff,

v.

ROCKRIDGE MARKET HALL, LLC dba
MARKET HALL FOODS, a California limited
liability company; SARA ELIZABETH
WILSON, ANTHONY GORDON WILSON,
and PETER SYDNEY WILSON dba
MARKET HALL FOODS, a general
partnership; MARKET HALL FOODS, a
general partnership; and DOES 6 through 100,
inclusive;

Defendants.

Case No.: 22CV005647

Assigned for All Purposes to:
Honorable Evelio Grillo
Department 21

CLASS ACTION

**AMENDED ~~PROPOSED~~ ORDER OF
FINAL APPROVAL AND JUDGMENT**

[Reservation ID: 334379289301]

Hearing Date: July 11, 2023
Hearing Time: 10:00 a.m.
Hearing Place: Department 21

Complaint Filed: January 20, 2022
FAC Filed: May 10, 2022
Trial Date: None Set

1 The Court, having read the papers filed regarding Plaintiff Samyra McCrea's ("Plaintiff")
2 Motion for Final Approval of Class Action Settlement, and considering the papers submitted in
3 support of the motion, including the Amended Class Action and PAGA Settlement Agreement
4 and Class Notice ("Settlement Agreement," "Settlement," or "Agreement"), hereby **FINDS**
5 **AND ORDERS:**

6 Plaintiff and Defendants Market Hall Foods, Rockridge Market Hall, LLC dba Market
7 Hall Foods, Sara Elizabeth Wilson, Anthony Gordon Wilson, and Peter Sydney Wilson dba
8 Market Hall Foods ("Defendants") entered the Settlement Agreement on or about February 14,
9 2023 to settle this lawsuit.

10 The Court entered an order dated February 28, 2023 preliminarily approving the
11 settlement of this lawsuit ("Preliminary Approval Order"), consistent with the Code of Civil
12 Procedure section 382 and California Rule of Court 3.769, ordering notice to be sent to Class
13 Members, providing Class Members with an opportunity to object to the Settlement or exclude
14 themselves from the Class, and scheduling a Final Approval Hearing.

15 The Court held a Final Approval Hearing on July 11, 2023 to determine whether to give
16 final approval to the Settlement of this lawsuit.

17 1. Incorporation of Other Documents. This Amended Order of Final Approval and
18 Judgment ("Order and Judgment") incorporates the Settlement Agreement. Unless otherwise
19 provided herein, all capitalized terms in this Order and Judgment shall have the same meaning as
20 set forth in the Settlement Agreement.

21 2. Jurisdiction. Because adequate notice has been disseminated and the Class has
22 been given the opportunity to request exclusion, the Court has personal jurisdiction with respect
23 to the claims of all Class Members. The Court has subject matter jurisdiction over this lawsuit,
24 including jurisdiction to approve the Settlement and grants final certification of the Class.

25 3. Final Class Certification. The Court finds the Class satisfies all applicable
26 requirements of Code of Civil Procedure section 382, California Rule of Court 3.769, and due
27 process. The Court certifies the Class consisting of all current and former non-exempt employees
28 who have been employed by Defendants in California at any time during the period from January

1 20, 2018, through November 22, 2022 (“Class,” “Class Members,” and “Class Period”). There
2 are 1,000 Class Members who did not submit valid and timely Requests for Exclusion from the
3 Settlement (“Participating Class Members”).¹

4 4. Adequacy of Representation. Class Counsel fully and adequately represented the
5 Class for the purposes of entering and implementing the Settlement and satisfied the
6 requirements of Code of Civil Procedure section 382.

7 5. Notice Packet. The Court finds the Class Notice and Exclusion Form
8 (collectively, the “Notice Packet”) and its distribution to Class Members were implemented
9 pursuant to the Settlement Agreement and this Court’s Preliminary Approval Order. The Court
10 also finds the Notice Packet:

11 a. constitutes notice reasonably calculated to apprise Class Members of: (i)
12 pendency of this lawsuit; (ii) material terms and provisions of the Settlement Agreement and
13 their rights; (iii) their right to object to any aspect of the Settlement Agreement; (iv) their right to
14 exclude themselves from the Settlement Agreement; (v) their right to receive settlement
15 payments; (vi) their right to appear at the Final Approval Hearing; and (vii) binding effect of the
16 orders and judgment in this lawsuit on all Participating Class Members;

17 b. constitutes notice that fully satisfied the requirements of Code of Civil
18 Procedure section 382, California Rule of Court 3.769, and due process;

19 c. constitutes the best practicable notice to Class Members under the
20 circumstances of this lawsuit; and

21 d. constitutes notice reasonable, adequate, and sufficient to Class Members.

22 6. Final Settlement Approval. The terms and provisions of the Settlement
23 Agreement have been entered into good faith and are the product of arm’s-length negotiations by
24 experienced counsel who have done a meaningful investigation of the claims. The Settlement
25 Agreement and all its terms and provisions are fully and finally approved as fair, reasonable,
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28 ¹ The Administrator mailed out 1,003 Notice Packets and received three (3) requests for
exclusion. Thus, there are 1,000 Participating Class Members.

adequate, and in the best interests of the Parties. The Parties are hereby directed to implement the Settlement Agreement according to its terms and provisions.

7. Binding Effect. The terms and provisions of the Settlement Agreement and this Order and Judgment are binding on Plaintiff, Participating Class Members, Aggrieved Employees, and their spouses, heirs, registered domestic partners, executors, administrators, successors, and assigns. In addition, those terms shall have res judicata and other preclusive effect in all pending and future claims, lawsuits, or other proceedings maintained by or on behalf of any such persons to the extent those claims, lawsuits, or other proceedings involve matters that were or could have been raised in this lawsuit and are encompassed by the Released Class Claims and Released Private Attorneys General Act of 2004 ("PAGA") Claims. The Settlement Agreement will have no binding effect upon, and provide no res judicata preclusion to, those Class Members who have submitted timely requests for exclusion.

8. Enforcement of Settlement. Nothing in this Order and Judgment shall preclude any action to enforce the terms and provisions of the Settlement Agreement.

9. Release by Participating Class Members. Effective on the date when Defendants fully fund the entire Gross Settlement Amount and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments, all Participating Class Members release and discharge the Released Parties from the Released Class Claims.

a. Release by the State of California. Effective on the date when Defendants fully fund the entire Gross Settlement Amount and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments, Plaintiff as agent and proxy of the State of California, and the State of California itself (including the California Labor and Workforce Development Agency ("LWDA"), and any individual seeking to serve as agent and proxy of the State of California), shall release and discharge the Released Parties from the Released PAGA Claims.

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1 b. Plaintiff's Release. Effective on the date when Defendants fully fund the entire
2 Gross Settlement Amount and all employer payroll taxes owed on the Wage
3 Portions of the Individual Class Payments, Plaintiff and her former and present
4 spouses, representatives, agents, attorneys, heirs, administrators, successors, and
5 assigns generally release and discharge the Released Parties from Plaintiff's
6 Release. Plaintiff also expressly waives and relinquishes the provisions, rights,
7 and benefits, if any, of section 1542 of the Civil Code.

8 c. Released Parties. The Released Parties include Defendants and any of their
9 former and present parents, subsidiaries, divisions, and affiliated companies,
10 including their respective officers, directors, employees, partners, shareholders,
11 agents, successors, assigns, and legal representatives.

12 10. Class Representative Service Payment. The Court finds the Class Representative
13 Service Payment of \$10,000, to be paid by Defendants to Plaintiff out of the Gross Settlement
14 Amount, to be reasonable and appropriate. The Class Representative Service Payment is to be
15 paid pursuant to the terms and provisions set forth in the Agreement.

16 a. The rationale for making enhancement payments is class representatives should
17 be compensated for the expense and risk they incurred in conferring a benefit on
18 the Class. Criteria courts consider include: (1) risk to the class representatives in
19 commencing suit; (2) notoriety and personal difficulties; (3) amount of time and
20 effort spent by the class representatives; (4) duration of the litigation; and (5)
21 personal benefit (or lack thereof) enjoyed by class representatives.

22 b. The Court reviewed Plaintiff's declaration outlining his involvement. Given the
23 risks inherent in the services as the class representative, duration of the case and
24 time involved, and benefits created for the Class, the Court approves the payment
25 of the Class Representative Service Payment of \$10,000 to Plaintiff.

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1 11. Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment.

2 The Court finds the Class Counsel Fees Payment of \$376,272, to be paid by Defendants to Class
3 Counsel out of the Gross Settlement Amount, to be reasonable and appropriate. In addition, the
4 Court finds the Class Counsel Litigation Expenses Payment as reimbursement for actual
5 litigation costs incurred of \$14,896.53, to be paid by Defendants to Class Counsel out of the
6 Gross Settlement Amount, to be reasonable and appropriate. Such fees and costs are to be paid
7 pursuant to the terms and provisions set forth in the Settlement Agreement. Defendants shall not
8 be required to pay for any other attorneys' fees and expenses, costs, or disbursements incurred by
9 Class Counsel or any other counsel representing Plaintiff or Class Members. Defendants shall
10 also not be required to pay for any other attorneys' fees and expenses, costs, or disbursements
11 incurred by Plaintiff or Class Members in connection with or related in any manner to this
12 lawsuit, Settlement Agreement, settlement administration, and/or Released Class Claims and
13 Released PAGA Claims.

14 a. The Court has an independent right and responsibility to review the Class Counsel
15 Fees Payment and only award so much as it determines reasonable. (See
16 *Garabedian v. Los Angeles Cellular Telephone Co.* (2004) 118 Cal.App.4th 123,
17 127-28.) The Class Counsel Fees Payment of \$376,272 is about thirty-one percent
18 (31.36%) of the common fund created for the benefit of the Class and is supported
19 by use of the percentage-fee method. (See *Laffitte v. Robert Half International,*
20 *Inc.* (2016) 1 Cal.5th 480, 504.) Considering the exceptional results achieved,
21 financial risk undertaken, difficult nature of this litigation, skills required,
22 percentage fees award in previous and other cases, and contingent fees charged in
23 the marketplace, the Court finds the Class Counsel Fees Payment is consistent
24 with the marketplace, is reasonable, and is approved.

25 b. The Court reviewed the declaration of Douglas Han regarding the costs expended
26 in prosecuting this case. Under the terms of the Settlement, Class Counsel may
27 seek reimbursement of up to \$20,000 in litigation costs. The Court finds Class
28 Counsel expended \$14,896.53 in litigation costs, and such costs were reasonable.

1 Thus, the Court approves the payment of the Class Counsel Litigation Expenses
2 Payment of \$14,896.53 from the common fund for the reimbursement of Class
3 Counsel's litigation costs.

4 12. Administration Expenses Payment. The Court finds Administration Expenses
5 Payment of \$20,000, to be paid by Defendants to the Administrator out of the Gross Settlement
6 Amount, to be reasonable and appropriate. The Administration Expenses Payment are to be paid
7 pursuant to terms and provisions set forth in the Settlement Agreement.

8 a. The Court reviewed the declaration of Kevin Lee from Phoenix Class Action
9 Administration Solutions, the Court-approved Administrator. The Court finds
10 notice was provided to the Class pursuant to the Preliminary Approval Order,
11 constitutes the best practicable notice to the Class, and satisfied due process.
12 Thus, the Court approves the payment of the Administration Expenses Payment of
13 \$20,000 for the Administrator's services in administering the Settlement.

14 13. PAGA Penalties. The Court finds the PAGA Penalties of \$100,000, seventy-five
15 percent (75%) of which (\$75,000) will be paid to the LWDA out of the Gross Settlement
16 Amount and twenty-five percent (25%) of which (\$25,000) shall be distributed to Aggrieved
17 Employees, on a pro rata basis, to be reasonable and appropriate. The PAGA Penalties is to be
18 paid pursuant to the terms and provisions set forth in the Settlement Agreement.

19 14. Funding of Gross Settlement Amount. Within thirty (30) calendar days after the
20 Effective Date, Defendants will wire fifty percent (50%) of the amount necessary to fund the
21 Settlement to the Administrator. The remaining fifty percent (50%) will be due to the
22 Administrator ninety (90) calendar days after the first installment. Within fifteen (15) calendar
23 days after Defendants fund the first fifty percent (50%) of the Gross Settlement Amount, the
24 Administrator will distribute the first fifty percent (50%) of the settlement payments. After
25 Defendants fund the remaining fifty percent (50%) of the Gross Settlement Amount, the
26 Administrator will similarly distribute the second half of the settlement payments.

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1 15. Fairness of the Settlement. As noted in the Preliminary Approval Order, the
2 Settlement is entitled to a presumption of fairness. In the moving papers, Plaintiff contends the
3 Settlement was the product of arm's-length negotiations following extensive litigation,
4 discovery, and exchange of documentation. The negotiations were facilitated with the aid of
5 Michael J. Loeb, an experienced and well-respected mediator.

6 a. The fairness of the Settlement is demonstrated by there being no objections to and
7 only three (3) requests for exclusion from the Settlement.

8 b. The fairness of the Settlement is further illustrated by the gross *average*
9 Individual Class Payment being approximately \$655.10, and the gross *highest*
10 Individual Class Payment being about \$2,254.30.

11 16. Uncashed Checks. Participating Class Members and Aggrieved Employees must
12 cash or deposit their settlement checks within one hundred eighty (180) calendar days after the
13 settlement checks are mailed to them. Uncashed settlement checks will be canceled and paid to
14 the *cy pres* recipient Legal Aid At Work.

15 17. Modification of the Agreement. The Participating Class Members are hereby
16 authorized to agree to and adopt amendments to or modifications of the Agreement by an express
17 written instrument signed by all Parties or their representatives and approved by the Court. Such
18 amendments or modifications shall be consistent with this Order and Judgment and cannot limit
19 the rights of Participating Class Members under the Agreement.

20 18. Final Accounting and Compliance. The Court sets a nonappearance case review
21 for June 14, 2024 at ^{1:30 pm} 10:00 a.m. in Department 21. Within five (5) court days before this hearing,
22 Plaintiff shall file a compliance status report. Pursuant to Code of Civil Procedure section 384,
23 the compliance status report shall specify the total amount paid to Participating Class Members
24 and the residual of the unclaimed settlement funds that will be paid to the entity identified as the
25 recipient of such funds in the Settlement Agreement, along with a proposed amended judgment
26 to facilitate this payment.

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- 1 a. Holdback Provision. Ten percent (10%) of the Class Counsel Fees Payment
2 (\$37,627.20) shall be held in an interest-bearing account, maintained by the
3 Administrator, pending the submission and approval of a final compliance status
4 report after completion of the distribution process.

5 19. Retention of Jurisdiction. The Court has jurisdiction to enter this Order and
6 Judgment. This Court expressly retains jurisdiction for the administration, interpretation,
7 effectuation, and/or enforcement of the Settlement Agreement and of this Order and Judgment,
8 and for any other necessary purpose, including, without limitation:

- 9 a. enforcing the terms and provisions of the Settlement and resolving any disputes,
10 claims, or causes of action in this lawsuit that, in whole or in part, are related to or
11 arise out of the Settlement or this Order and Judgment;
12 b. entering such additional orders as may be necessary or appropriate to protect or
13 effectuate this Order and Judgment approving the Settlement, and permanently
14 enjoining Plaintiff from initiating or pursuing related proceedings, or to ensure the
15 fair and orderly administration of the Settlement; and
16 c. entering any other necessary or appropriate orders to protect and effectuate this
17 Court's retention of continuing jurisdiction.

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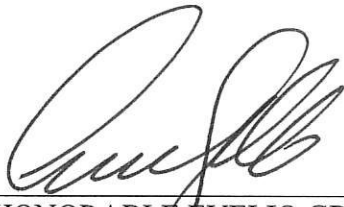
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1 The Motion for Final Approval of Class Action Settlement, Class Counsel Fees Payment,
2 Class Counsel Litigation Expenses Payment, and Class Representative Service Payment is
3 GRANTED. The Administrator is directed to carry out the terms of the Settlement Agreement
4 forthwith.

5 THE PARTIES ARE HEREBY ORDERED TO COMPLY WITH THE TERMS OF
6 THE SETTLEMENT AGREEMENT. PURSUANT TO CALIFORNIA RULES OF COURT
7 3.769, THE COURT HEREBY ENTERS FINAL JUDGMENT BASED UPON THE TERMS
8 OF THIS ORDER AND SETTLEMENT AGREEMENT AND, WITHOUT AFFECTING THE
9 FINALITY OF THIS MATTER, RETAINS EXCLUSIVE AND CONTINUING
10 JURISDICTION TO ENFORCE THIS ORDER, THE SETTLEMENT AGREEMENT, AND
11 THE JUDGMENT THEREON.

12 IT IS SO ORDERED.

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14 DATED: JUL 27 2023



HONORABLE EVELIO GRILLO
SUPERIOR COURT JUDGE

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PROOF OF SERVICE