

D.LAW, INC.
Emil Davtyan (SBN 299363)
emil@d.law
Alvin B. Lindsay (SBN 220236)
a.lindsay@d.law
880 E Broadway,
Glendale, CA 91205
Telephone: 818-962-6465
Fax: 818-962-6469

DAVID YEREMIAN & ASSOCIATES, INC.
David Yeremian (SBN 226337)
david@yeremianlaw.com
880 E Broadway,
Glendale, CA 91205
Telephone: 818-962-6465
Fax: 818-962-6469

LAW OFFICES OF SCOTT WHEELER
Scott Ernest Wheeler (SBN 187998)
sew@scottwheelerlawoffice.com
250 West First Street, Suite 216
Claremont, CA 91711
Telephone: (909) 621-4988
Facsimile: (909) 621-4622

Attorneys for Plaintiffs RENE GARCIA CRUZ and
ROBERTO M. PEREZ, on behalf of themselves
and others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF KERN

RENE GARCIA CRUZ and ROBERTO M.
PEREZ, individually and on behalf of all
others similarly situated,
Plaintiffs,

v.

ALLIED POTATO, INC., a California
Corporation; ARRIOLA FARM LABOR,
INC., a California Corporation; and DOES 1
to 50, inclusive,
Defendant.

Case No.: BCV-22-100238
(Consolidated with Case No. BCV-22-100990)

CLASS ACTION

Assigned for All Purposes To:
Hon. Thomas S. Clark
Dept.: 17

**[PROPOSED] ORDER GRANTING
PLAINTIFFS' UNOPPOSED MOTION
FOR PRELIMINARY APPROVAL OF
STIPULATION OF SETTLEMENT AND
RELEASE OF CLASS ACTION**

*[Filed concurrently with Notice of Motion and
Motion; Memorandum of Points and Authorities;
and Declarations of David Yeremian, Alvin B.
Lindsay, Scott Wheeler, Rene Garcia Cruz and
Roberto M. Perez]*

Date: November 20, 2023
Time: 8:30 a.m.
Dept.: 17

ORDER

Plaintiffs RENE GARCIA CRUZ and ROBERTO M. PEREZ (“Plaintiffs”), on behalf of themselves and all other similarly situated employees of Defendant ALLIED POTATO, INC. and ARRIOLA FARM LABOR, INC (“Defendants”) (collectively, “the parties”), filed an unopposed Motion for Preliminary Approval of the parties’ Stipulation of Settlement and Release of Class Action (“Settlement Agreement”). The Motion was set for hearing on November 20, 2023 at 8:30 a.m.. in Department 17 of the Courthouse of the Kern Superior Court located at 1415 Truxtun Ave, Bakersfield, California, and Defendants do not oppose it. The Court having considered the Settlement Agreement and the proposed Notice of Class Action Settlement (“Class Notice”) at Exhibit A to the Settlement Agreement, the submissions of counsel, and all other papers filed in this litigation, and Defendants’ non-opposition to the Motion, hereby ORDERS as follows:

1. Plaintiffs’ Motion for Preliminary Approval of the parties’ Settlement Agreement, which is attached at Exhibit A to the Declaration of Class Counsel, David Yeremian, Esq., is GRANTED;

2. This Order incorporates by reference the definitions in the Settlement Agreement and all terms defined therein shall have the same meaning as in this Order;

3. The Court conditionally certifies a Class consisting of: “all current and former nonexempt employees who were employed by Allied Potato, Inc. as non-exempt, hourly agricultural workers and in similar and related positions in California during the Class Period; and all current and former non-exempt employees who were employed by Arriola Farm Labor, Inc. and assigned to work for Allied Potato, Inc. as non-exempt, hourly agricultural workers and in similar and related positions in California during the Class Period.” The Class Period is defined as October 1, 2020 through the date Plaintiffs filed their motion for preliminary approval of the Settlement Agreement. “Class Participants” are defined as all Class Members who do not timely opt-out of the Class Settlement. (Yeremian Decl., Exhibit A, Settlement, ¶¶ I.4; I.8-9). Should the Settlement not be finally approved, this Order will be rendered null and void and shall be vacated, and the fact that the parties were willing to stipulate to class certification as part of the settlement shall have no bearing on, nor be admissible in connection with, the issue of whether a class

1 should be certified in a non-settlement context. Should the settlement not become final, the
2 parties shall revert to their respective positions prior to notifying the Court of the settlement of the
3 action.

4 4. The class action settlement contemplated by the Settlement Agreement is
5 preliminarily approved based upon the terms set forth in the Settlement Agreement, the
6 Settlement appears to be fair, adequate, and reasonable for the Class, and falls within the range of
7 reasonableness that could ultimately be granted final approval by the Court. The preliminary
8 approval of the class action settlement includes the approval for purposes of the settlement of
9 David Yeremian of David Yeremian and Associates, Inc., Alvin B. Lindsay of D.Law, Inc. and
10 Scott Ernest Wheeler of the Law Offices of Scott Wheeler as Class Counsel, Plaintiffs Rene
11 Garcia and Roberto Perez as Class Representatives, and ILYM Group, Inc. (“ILYM”) as the
12 Settlement Administrator. Class Counsel is authorized to act on behalf of the Class members with
13 respect to all acts or consents required by or which may be given pursuant to the Settlement
14 Agreement and the class action settlement contemplated by the Settlement Agreement, and such
15 other acts reasonably necessary to consummate the settlement. The Settlement Administrator is
16 authorized to perform such acts as set forth in this Order and the Settlement Agreement.

17 5. The Court approves the parties’ PAGA Payment allocation of \$20,000.00 to settle
18 claims under the Labor Code Private Attorneys General Act of 2004 (“PAGA”). Pursuant to
19 Labor Code § 2699(i), 75% of this amount, or \$15,000.00, shall be paid to the California Labor &
20 Workforce Development agency and the remaining 25%, or \$5,000.00, portion of the PAGA
21 Payment will be paid to the PAGA Participants in the manner set forth in the Settlement
22 Agreement. (Yeremian Decl., Exhibit A, Settlement, ¶¶ IV.4; VII.1.e-f; VII.3).

23 6. The Class Notice (or the “Notice”), attached at Exhibit A to the Settlement
24 Agreement at Exhibit A to the Yeremian Declaration, advises the Class of the material terms and
25 provisions of this Settlement, the procedure for approval thereof, and their rights with respect
26 thereto, and is approved as to form and content. The Court approves the procedures set forth in
27 the Settlement Agreement for Class Members to participate in, opt out of, and object to the
28 Settlement as set forth in the Notice.

1 7. The Notice shall be sent by first class mail to the Class in accordance with the
2 schedule set forth in the Settlement Agreement. The dates selected for the mailing and
3 distribution of the Class Notice, and the other dates as set forth below, meet the requirements of
4 due process and provide the best notice practicable under the circumstances, and shall constitute
5 due and sufficient notice to all persons entitled thereto:

6 a. Deadline for Defendant to provide to Settlement Administrator the Class Member
7 data and related information in electronic form: 14 calendar days after entry of the Court's Order
8 granting preliminary approval to the Settlement.

9 b. Deadline for Settlement Administrator to mail the Class Notice by first-class
10 regular U.S. mail: 28 calendar days after entry of the Court's Order granting preliminary approval
11 of the Settlement.

12 c. Deadline for class members to mail objections or requests for exclusion to the
13 Settlement Administrator: 45 calendar days after the mailing of the Class Notice.

14 d. Deadline for Class Counsel to file a Motion for Final Approval of the Settlement
15 Agreement: 16 Court days before hearing on Plaintiffs Motion for Final Approval and Motion for
16 Attorneys' Fees and Costs and Representative Service Award.

17 e. Deadline for Class Counsel to file Motion for Attorneys' Fees and Costs and
18 Representative Service Award: 16 Court days before Final Settlement Fairness Hearing and
19 hearing on Plaintiffs Motion for Final Approval and Motion for Attorneys' Fees and Costs and
20 Representative Enhancement.

21 8. A Final Approval and Settlement Fairness Hearing on the question of whether the
22 proposed Settlement, attorneys' fees and costs to Class Counsel, and the class representative
23 service awards and Settlement Administration costs should be approved as fair, reasonable, and
24 adequate as to the Settlement Class and whether the Settlement should be given final approval is
25 scheduled on: _____, 2024 at _____.m. At the final approval hearing, Settlement
26 Class Members may be heard orally in support of the Settlement, or in opposition to the
27 Settlement in the event there are objectors.

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1 9. The Court reserves the right to adjourn or continue the date of the Settlement
2 Fairness Hearing and all dates provided for in the Settlement Agreement without further notice to
3 the Class, and retains jurisdiction to consider all further applications arising out of or connected
4 with the Settlement Agreement.

5 10. The Settlement Agreement shall not be construed as an admission or evidence of
6 either liability or the appropriateness of class certification in the non-settlement context, as more
7 specifically set forth in the Settlement Agreement. Entry of this Order is without prejudice to the
8 rights of Defendants to oppose certification of a class in this action should the proposed
9 Settlement not be granted final approval.

10 11. As of the Effective Date, and in accordance with the Settlement Agreement, all
11 Class Members who do not timely submit a Request for Exclusion from the Settlement will be
12 deemed to have forever released and discharged the Released Claims and the Release of Claims
13 by Settlement Class as set forth in the Settlement Agreement. The Released PAGA Claims will
14 also be released by the PAGA Participants as of final approval, as further addressed in the
15 Settlement Agreement. In the event the Effective Date does not occur for any reason, the
16 Settlement Agreement will be deemed null and void and shall have no effect whatsoever.

17 12. All further proceedings in this action are stayed except such proceedings necessary
18 to review, approve, and implement this Settlement.

19 13. The Court finds that all required notifications and submissions to the California
20 Labor and Workforce Development Agency (LWDA) about the Settlement Agreement and
21 Motion have been made by Plaintiffs in the time and manner specified under the PAGA.

22 **IT IS SO ORDERED.**

23
24 Dated: _____, 2023

Hon. Thomas S. Clark
Judge of the Superior Court