

DIVERSITY LAW GROUP, P.C.
Larry W. Lee (State Bar No. 228175)
lwlee@diversitylaw.com
Simon L. Yang (State Bar No. 260286)
sly@diversitylaw.com
515 South Figueroa Street, Suite 1250
Los Angeles, California 90071
Telephone: (213) 488-6555
Facsimile: (213) 488-6554

D. LAW, INC.
Emil Davtyan (State Bar No. 299363)
emil@d.law
400 N. Brand Blvd., Suite 700
Glendale, California 91203
Telephone: (818) 875-2008
Facsimile: (818) 722-3974

Attorneys for Plaintiffs and the Class

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

PATRICIA O'CONNOR and STEVEN
RODRIGUEZ, as individuals and on behalf of all
others similarly situated,

Plaintiffs,

vs.

WHOLE FOODS MARKET CALIFORNIA,
INC., a California corporation; and DOES 1
through 50, inclusive,

Defendants.

Case No. 22CV008620

[Hon. Noël Wise, Department 21]

**[PROPOSED] ORDER GRANTING
MOTION FOR FINAL APPROVAL OF
CLASS ACTION SETTLEMENT AND
FINAL JUDGMENT**

Date: June 18, 2024
Time: 1:30 p.m.
Department: 21

Reservation ID: 120997891563

Complaint Filed: March 18, 2022

1 On or about May 24, 2024, Plaintiffs Patricia O'Connor and Steven Rodriguez filed a motion for
2 an Order Granting Final Approval of Class Action Settlement, and on June 18, 2024, a hearing was held
3 on this matter.

4 The Court has considered the papers and evidence, including the Joint Stipulation of Class
5 Action and PAGA Settlement, as modified by the Amendment to Joint Stipulation of Class Action and
6 PAGA Settlement (collectively, the "Agreement"), the arguments of counsel, and all other matters
7 presented to the Court regarding final approval of the settlement, approval of requested allocations from
8 the settlement fund, and entry of final judgment.

9 **I. Recital**

10 On March 18, 2022, Plaintiffs Patricia O'Connor and Steven Rodriguez filed this class and Labor
11 Code Private Attorneys General Act of 2004 ("PAGA") action against Defendant, Whole Foods Market
12 California, Inc. The lawsuit alleges Defendant failed to furnish wage statements that accurately show all
13 applicable hourly rates to non-exempt employees who were paid overnight wages.

14 **A. Class Members**

15 The Class is defined to include any current or former non-exempt employees who worked for
16 Defendant in the State of California and received overnight wages at any time during the Class Period.
17 The Class Period is from March 18, 2021, through November 28, 2021. All Class Members are also
18 Aggrieved Employees. The PAGA Period is the same as the Class Period.

19 With one opt out from 772 Class Members, there are 771 individuals that comprise the
20 Settlement Class.

21 **B. Operation of the Settlement**

22 Pursuant to the Court's February 28, 2024 Preliminary Approval Order, the Court conditionally
23 certified the Class and granted preliminary approval to the settlement. The Preliminary Approval Order
24 also approved of the proposed forms of notice to the Class. The Court entered the Preliminary Approval
25 Order after review and consideration of all of the pleadings filed in connection herewith, and the oral
26 presentations made by counsel at the hearing. In compliance with the Preliminary Approval Order, the
27 Notice of Class Action Settlement ("Class Notice") was sent to all Class Members via first class mail.
28 The notice process was timely completed.

1 **II. Finding**

2 This Court finds that the Agreement appears to be the product of serious, informed, non-
3 collusive negotiations, has no obvious deficiencies, and does not improperly grant preferential treatment
4 to any individuals. The Court further finds that the Agreement is fair, adequate, and reasonable and that
5 Plaintiff has satisfied the standards for final approval of a class action settlement under California law.
6 Under the provisions of California Code of Civil Procedure section 382 and Rule 23 of the Federal
7 Rules of Civil Procedure, as approved for use in *Vasquez v. Superior Court*, 4 Cal. 3d 800, 821 (1971),
8 the trial court has discretion to certify a class where:

9 [Q]uestions of law or fact common to the members of the class predominate over any questions
10 affecting only individual members, and that a class action is superior to the available methods for
the fair and efficient adjudication of the controversy

11 FED. R. CIV. PROC. 23.

12 Certification of a settlement class is the appropriate judicial device under these circumstances.

13 **III. Order**

14 Good cause appearing **IT IS HEREBY ORDERED AND ADJUDICATED** as follows:

15 1. For purposes of this Order, the Court adopts all defined terms as set forth in the
16 Agreement.

17 2. The Court has jurisdiction over the subject matter of the litigation, the Class
18 Representatives, Settlement Class Members, and Defendant.

19 3. The Court finds that the dissemination of the Class Notice to the Class Members by the
20 appointed Settlement Administrator, Phoenix Settlement Administrators, constituted the best notice
21 practicable under the circumstances to all Class Members, and fully met the requirements of California
22 law and due process under the State and Federal Constitutions.

23 4. The Court approves the settlement of the above-captioned action, as set forth in the
24 Agreement, as fair, adequate, and reasonable to the Parties and Class Members. The Parties are directed
25 to perform in accordance with the terms set forth in the Agreement.

26 5. Except as otherwise provided in the Agreement, the Parties are to bear their own costs
27 and attorneys' fees.
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1 6. The Court hereby certifies the following Class of all current or former non-exempt
2 employees who worked for Defendant in the State of California and received overnight wages at any
3 time from March 18, 2021, through November 28, 2021.

4 7. With respect to the Class and for purposes of approving the settlement only and for no
5 other purpose, this Court finds and concludes that: (a) the members of the Class are ascertainable and so
6 numerous that joinder of all members is impracticable; (b) there are questions of law or fact common to
7 the Class, and there is a well-defined community of interest among members of the Class with respect to
8 the subject matter of the non-exempt claims in the Action; (c) the claims of Class Representatives are
9 typical of the claims of the members of the Class; (d) the Class Representatives has fairly and
10 adequately protected the interests of the members of the Class; (e) a class action is superior to other
11 available methods for an efficient adjudication of this controversy; and (f) the counsel of record for the
12 Class Representatives, i.e., Class Counsel, are qualified to serve as counsel for Plaintiff in his individual
13 and representative capacities and for the Class.

14 8. Within 21 days after the grant of Final Approval of the settlement, Defendant shall
15 deposit the Gross Settlement Amount of \$1,200,000.00 with the Administrator, pursuant to the terms of
16 the Agreement.

17 9. Subject to the holdback in Paragraph 10, the Administrator shall pay from the Gross
18 Settlement Amount:

- 19 • to Class Counsel attorneys' fees in the amount of \$400,000.00 and reimbursement of
20 costs in the amount of \$2,143.07;
- 21 • to Class Representatives Patricia O'Connor and Steven Rodriguez for their unique
22 services to the Class, and as consideration for their execution of general releases, the
23 amount of \$10,000.00 each;
- 24 • to the California Labor and Workforce Development Agency the amount of
25 \$225,000.00 for its 75% share of PAGA Penalties; and
- 26 • to Phoenix Settlement Administrators the amount of \$11,500.00 for its fees and costs
27 in administering the settlement.

1 10. The Court finds that these amounts are fair and reasonable. The Administrator is directed
2 to make such payments in accordance with the terms of the Agreement, with the exception of 10% of the
3 \$400,000.00 in attorneys' fees, or \$40,000.00, which shall remain on deposit with the Administrator
4 until the completion of the settlement distribution process and the Court approves a final accounting.

5 11. The Court hereby orders the parties to implement the terms of the Agreement, including
6 payment of the Individual Settlement Payment and Individual PAGA Payment amounts, which shall be
7 distributed by the Administrator pursuant to the terms of the Agreement, after allocation of the amounts
8 set forth in Paragraph 9.

9 12. A compliance hearing is set for [February 11, 2025], at 1:30 p.m. in Department 21 of
10 this Court. At least 16 days prior to the compliance hearing, Plaintiff shall file a declaration from the
11 Administrator establishing the status of distribution of settlement funds along with a proposed amended
12 judgment that conforms to Code of Civil Procedure section 384. If the Court approves the final
13 accounting, it will approve an amended judgment and order the release of the holdback of 10% of the
14 attorneys' fees and payment of any unclaimed funds to the Code of Civil Procedure section 384
15 beneficiary.

16 13. All Class Members who did not opt out of the Settlement shall be bound by the releases
17 provided in the Agreement. The LWDA shall be bound by the PAGA releases provided in the
18 Agreement. The Class Representatives shall be bound by the additional general releases provided in the
19 Agreement.

20 **IV. Judgment**

21 14. The Court hereby enters final judgment in this case in accordance with the terms of the
22 Settlement, Preliminary Approval Order, and this Order. Without affecting the finality of the Settlement
23 or Judgment entered, this Court shall retain exclusive and continuing jurisdiction over the action and the
24 Parties, including all Settlement Class Members, for purposes of enforcing and interpreting this Order
25 and the Settlement.

26 15. Pursuant to Code of Civil Procedure section 668.5, judgment shall be entered as of the
27 filing of this judgment. This judgment makes no finding of any violation of the Labor Code, liability, or
28

1 other wrongdoing. None of the settlement or any of its terms, the order approving the settlement, or this
2 judgment are an admission of any liability or finding of any violation of the Labor Code.

3 **IT IS SO ORDERED AND ADJUDGED.**

4 DATED: _____, 2024

5 THE HONORABLE NOËL WISE
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