

FILED

KERN COUNTY SUPERIOR COURT

10/15/2024

DOUGLAS HAN (SBN 232858)
 SHUNT TATAVOS-GHARAJEH (SBN 272164)
 WILLIAM WILKINSON (SBN 346777)
 HAIG HOGDANIAN (SBN 334699)
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BY Fogerson, Vickie
 DEPUTY

Attorneys for Plaintiffs

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF KERN

MANUEL PALOMO and BRYANT
 HEREDIA, individually, and on behalf of
 aggrieved employees pursuant to the Private
 Attorneys General Act ("PAGA");

Plaintiffs,

v.

SUNMET JUICE COMPANY, LLC, a
 California limited liability company;
 SUNMET PACKING & COLD STORAGE,
 LLC, a California limited liability company;
 ETCHEGARAY FARMS LLC, a California
 limited liability company; and DOES 1
 through 100, inclusive;

Defendants.

Case No.: BCV-23-101351-BCB

Assigned for All Purposes to:
 Honorable Bernard C. Barmann, Jr.
 Division H

CLASS ACTION

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

Hearing Date: October 15, 2024
 Hearing Time: 8:30 a.m.
 Hearing Place: Division H

Complaint Filed: May 2, 2023
 FAC Filed: July 11, 2023
 SAC Filed: April 11, 2024
 Trial Date: None Set

1 The Court, having read the papers filed regarding Plaintiffs Manuel Palomo and Bryant
2 Heredia's ("Plaintiffs") Motion for Final Approval of Class Action Settlement, Class Counsel
3 Fees Payment, Class Counsel Litigation Expenses Payment, and Class Representative Service
4 Payments, and after considering the papers submitted in support of the motion, including the Class
5 Action and PAGA Settlement Agreement ("Settlement Agreement," "Settlement," or
6 "Agreement"), hereby FINDS AND ORDERS as follows:

7 Plaintiffs and Defendants Sunmet Juice Company, LLC, Sunmet Packing & Cold Storage,
8 LLC, and Etchegaray Farms LLC ("Defendant") entered the Settlement Agreement on or about
9 April 8, 2024 to settle this lawsuit.

10 The Court entered an order dated June 4, 2024 preliminarily approving the settlement of
11 this lawsuit ("Preliminary Approval Order") consistent with the Code of Civil Procedure section
12 382 and California Rule of Court 3.769, ordering notice to be sent to Class Members, providing
13 Class Members with an opportunity to object to the Settlement or exclude themselves from the
14 Class, and setting a Final Approval Hearing.

15 The Court held a Final Approval Hearing on October 15, 2024 to determine whether to
16 give final approval to the Settlement of this lawsuit.

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

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

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1 3. Final Class Certification. The Court finds the Class satisfies all applicable
2 requirements of Code of Civil Procedure section 382, California Rule of Court 3.769, and due
3 process. The Court certifies a Class consisting of all current and former hourly-paid or non-
4 exempt direct hires of Defendant who worked for Defendant during the period from May 2, 2019,
5 through June 4, 2024, and all current and former hourly-paid or non-exempt employees placed to
6 work at Defendant Sunmet Juice Company, LLC through the temporary employment agency
7 United Staffing Associates, LLC during the period from May 2, 2019, through June 4, 2024
8 (“Class,” “Class Members,” and “Class Period”). There are six hundred fifty (650) Class
9 Members who did not submit valid and timely Requests for Exclusion from the Settlement
10 (“Participating Class Members”).

11 4. Adequacy of Representation. As Class Counsel, Justice Law Corporation have
12 fully and adequately represented the Class for purposes of entering and implementing the
13 Settlement and have satisfied the requirements of Code of Civil Procedure section 382.

14 5. Class Notice. The Court finds the Court Approved Notice of Class Action
15 Settlement and Hearing Date for Final Court Approval (“Class Notice”) and its distribution to
16 Class Members have been implemented pursuant to the Settlement and the Court’s Preliminary
17 Approval Order. The Court finds the Class Notice:

- 18 a. constitutes notice reasonably calculated to apprise Class Members of: (i) pendency
19 of the lawsuit; (ii) material terms and provisions of the Settlement and their rights;
20 (iii) their right to object to any aspect of the Settlement; (iv) their right to exclude
21 themselves from the Settlement; (v) their right to receive settlement payments; (vi)
22 their right to appear at the Final Approval Hearing; and (vii) binding effect of the
23 orders and judgment in the lawsuit, whether favorable or unfavorable, on all
24 Participating Class Members;
- 25 b. constitutes notice that fully satisfied the requirements of Code of Civil Procedure
26 section 382, California Rule of Court 3.769, and due process;
- 27 c. constitutes the best practicable notice to Class Member under the circumstances
28 of the lawsuit; and

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

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

7. Final Settlement Approval. The terms and provisions of the Agreement have been entered in good faith and are the product of arm's-length negotiations by experienced counsel who have done a meaningful investigation of the claims. The Agreement and all its terms and provisions are fully and finally approved as fair, reasonable, adequate, and in the best interests of the Parties. The Parties are hereby directed to implement the Agreement according to its terms and provisions.

8. Binding Effect. The terms and provisions of the Settlement and this Order and Judgment are binding on Plaintiffs, Participating Class Members, and Aggrieved Employees, as well as their spouses, heirs, registered domestic partners, executors, administrators, successors, and assigns. 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 the lawsuit and are encompassed by the Released Class Claims and Released Private Attorneys General Act of 2004 ("PAGA") Claims. The Settlement will have no binding effect upon, and provide no res judicata preclusion to, those Class Members who have submitted timely requests for exclusion.

9. Release by Participating Class Members. As of the Effective Date, all Participating Class Members shall release the Released Parties of all claims that are not assertable under PAGA and that Plaintiffs alleged, or could have alleged, based on the facts pled in the Operative Complaint, and which arose or existed during the Class Period, as specified in further detail in Section E(3) of the Settlement Agreement.

a. Release by Aggrieved Employees. As of the Effective Date, all Aggrieved Employees and California Labor and Workforce Development Agency ("LWDA") shall release Defendant and Released Parties of all claims that are assertable under PAGA and that Plaintiffs alleged, or could have alleged, based on

1 the facts pled in the Operative Complaint or PAGA Notice, and which arose or
2 existed during the PAGA Period, as specified in further detail in Section E(4) of
3 the Settlement Agreement.

4 b. Plaintiffs' Release. As of the Effective Date, Plaintiffs and their former and present
5 spouses, representatives, agents, attorneys, heirs, administrators, successors, and
6 assigns generally release and discharge the Released Parties from all claims,
7 transactions, or occurrences that occurred during the Class Period. Plaintiffs
8 expressly waive and relinquish the provisions, rights, and benefits, if any, of
9 section 1542 of the Civil Code.

10 c. Released Parties. The Released Parties include Defendant together with its present
11 and former parents, subsidiaries, affiliated entities, commonly owned or controlled
12 entities, present and former owners, board members, officers, directors, trustees,
13 shareholders, members, partners, employees, agents, insurers, attorneys,
14 representatives, heirs, executors, administrators, successors, and assigns, and any
15 individual or entity to whom liability for claims released by Plaintiffs, or the
16 Released Class Claims and Released PAGA Claims, could be assigned pursuant
17 to Labor Code section 558.1, or on a joint-employer, alter-ego, or other vicarious
18 liability theory.

19 10. Class Representative Service Payments. The Court finds the Class Representative
20 Service Payments of \$10,000, to be paid by Defendant to each Plaintiff out of the Gross
21 Settlement Amount (totaling \$20,000), to be reasonable and appropriate. The Class
22 Representative Service Payments are to be paid pursuant to the terms and provisions set forth in
23 the Settlement Agreement.

24 a. The rationale for making enhancement payments is class representatives should be
25 compensated for the expense and risk incurred in conferring a benefit on the Class.
26 Criteria courts consider are: (i) risks in commencing the suit; (ii) notoriety and
27 personal difficulties encountered; (iii) amount of time and effort spent; (iv)
28 duration of the litigation; and (v) personal benefit (or lack thereof) enjoyed.

1 b. The Court reviewed Plaintiffs' declarations outlining their involvement in the
2 lawsuit. Given the risks inherent in the services as the class representatives,
3 duration of the case and time involved, and benefits created for the Class, the Court
4 approves the payment of the Class Representative Service Payments of \$10,000 to
5 each Plaintiff.

6 11. Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment. The
7 Court finds the Class Counsel Fees Payment of \$175,000, to be paid out of the Gross Settlement
8 Amount by Defendant to Class Counsel, to be reasonable and appropriate. The Court also finds
9 the Class Counsel Litigation Expenses Payment as reimbursement for litigation costs incurred of
10 \$20,946.90, to be paid by Defendant to Class Counsel out of the Gross Settlement Amount, to be
11 reasonable and appropriate. Such fees and costs are to be paid pursuant to the terms and provisions
12 set forth in the Settlement. Defendant shall not be required to pay for any other attorneys' fees
13 and expenses, costs, or disbursements incurred by Class Counsel or any other counsel
14 representing Plaintiffs and Class Members. Defendant shall also not be required to pay for any
15 other attorneys' fees and expenses, costs, or disbursements incurred by Plaintiffs and Class
16 Members in connection with or related to this lawsuit, Settlement, administration, and/or Released
17 Class Claims and Released PAGA Claims.

18 a. The Court has an independent right and responsibility to review the attorneys' fees
19 and only award so much as it determines reasonable. (See *Garabedian v. Los*
20 *Angeles Cellular Telephone Co.* (2004) 118 Cal.App.4th 123, 127-128.) The Class
21 Counsel Fees Payment of \$175,000 is thirty-five percent (35%) of the common
22 fund created for the benefit of the Class and is supported by the percentage-fee
23 method. (See *Laffitte v. Robert Half International, Inc.* (2016) 1 Cal.5th 480, 504.)
24 Considering the results achieved, financial risk undertaken, difficult nature of this
25 litigation, skills required, percentage fees award in previous and other cases, and
26 contingent fees charged in the marketplace, the Court finds the Class Counsel Fees
27 Payment is consistent with the marketplace, is reasonable, and is approved.
28

b. The Court reviewed the declaration of Douglas Han regarding the costs expended. Under the terms of the Settlement, Class Counsel may seek reimbursement of up to \$25,000. The Court finds Class Counsel expended \$20,946.90 in litigation costs, and such costs were reasonable. Thus, the Court approves the payment of the Class Counsel Litigation Expenses Payment of \$20,946.90 from the common fund for the reimbursement of litigation costs.

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

a. The Court reviewed the declaration of Yami Burns from Phoenix Class Action Administration Solutions, the Court-approved Administrator. The Court finds notice was provided to the Class pursuant to the Preliminary Approval Order, the notice constitutes the best practicable notice to the Class, and the notice satisfied due process. Thus, the Court approves the payment of the Administration Expenses Payment of \$12,000 for the Administrator's services.

13. PAGA Penalties. The Court finds the PAGA Penalties of \$40,000, seventy-five percent (75%) of which (\$30,000) will be paid to the LWDA out of the Gross Settlement Amount and twenty-five percent (25%) of which (\$10,000) will be allocated to the Aggrieved Employees, on a pro rata basis, to be reasonable and appropriate. The PAGA Penalties is to be paid pursuant to the terms and provisions set forth in the Settlement Agreement.

14. Funding of the Gross Settlement Amount. Defendant shall fund the Gross Settlement Amount and the amounts necessary to pay employer-side taxes on the Wage Portion of the Individual Class Payments as determined by the Administrator by transmitting the funds to the Administrator no later than thirty (30) calendar days from the Effective Date. Within fourteen (14) calendar days after Defendant fully funds the Gross Settlement Amount, the Administrator will mail settlement checks to the appropriate entities and persons.

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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, Plaintiffs contend the
3 Settlement was the product of arm's-length negotiations following litigation, discovery, and
4 exchange of documentation relating to the claims. The negotiations were facilitated with the aid
5 of the mediator Jeff Ross, who is an experienced class action mediator.

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

8 b. The fairness of the Settlement is also illustrated by the *average* Individual Class
9 Payment being approximately \$357, and the *highest* Individual Class Payment
10 being about \$1,693.35.

11 16. Uncashed Checks. Class Members must cash or deposit their settlement checks
12 within one hundred eighty (180) calendar days after the checks are mailed to them. Uncashed
13 settlement checks will be canceled and transmitted to the *cy pres* recipient the California
14 Farmworker Foundation.

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

21 18. Retention of Jurisdiction. The Court has jurisdiction to enter this Order and
22 Judgment. This Court expressly retains jurisdiction for the administration, interpretation,
23 effectuation, and/or enforcement of the Settlement Agreement and of this Order and Judgment,
24 and for any other necessary purpose, including, without limitation:

25 a. enforcing the terms and provisions of the Settlement and resolving any disputes,
26 claims, or causes of action in the class action that, in whole or in part, are related
27 to or arise out of the Settlement or this Order and Judgment;

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- 1 b. entering such additional orders as may be necessary or appropriate to protect or
2 effectuate this Order and Judgment approving the Settlement, and permanently
3 enjoining Plaintiffs from initiating or pursuing related proceedings, or to ensure
4 the fair and orderly administration of the Settlement; and
5 c. entering any other necessary or appropriate orders to protect and effectuate this
6 Court's retention of continuing jurisdiction.

7 The Motion for Final Approval of Class Action Settlement, Class Counsel Fees Payment,
8 Class Counsel Litigation Expenses Payment, and Class Representative Service Payments is
9 GRANTED. The Administrator is directed to carry out the terms of the Settlement.

10 THE PARTIES ARE HEREBY ORDERED TO COMPLY WITH THE TERMS OF THE
11 SETTLEMENT AGREEMENT. PURSUANT TO CALIFORNIA RULES OF COURT 3.769,
12 THE COURT HEREBY ENTERS FINAL JUDGMENT BASED UPON THE TERMS OF THIS
13 ORDER AND SETTLEMENT AGREEMENT AND, WITHOUT AFFECTING THE
14 FINALITY OF THIS MATTER, RETAINS EXCLUSIVE AND CONTINUING
15 JURISDICTION TO ENFORCE THIS ORDER, THE SETTLEMENT AGREEMENT, AND
16 THE JUDGMENT THEREON.

17
18 **IT IS SO ORDERED.**

19 DATED: October 15, 2024

20 
21 HONORABLE BERNARD C. BARMANN, JR.
22 SUPERIOR COURT JUDGE

23 Signed: 10/15/2024 09:02 AM

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PROOF OF SERVICE
1013A(3) CCP

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 751 N. Fair Oaks Avenue, Suite 101, Pasadena, California 91103 and my electronic service address is dmather@justicelawcorp.com.

On October 17, 2024, I served the foregoing document described as

ORDER OF FINAL APPROVAL AND JUDGMENT

for the following case: **Palomo v. Sunmet Juice Company, LLC, et al.**
LWDA/Court Case No.: **LWDA Case No.: CM- 884908-22**
Court Case No.: BCV-23-101351
Kern County Superior Court

on interested parties in this action by electronically submitting as follows:

State of California
Labor & Workforce Development Agency
800 Capitol Mall, MIC-55
Sacramento, California 95814

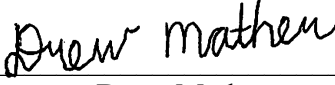
[X] BY ELECTRONIC SUBMISSION

Pursuant to California Senate Bill No. 836, I caused the documents described above to be electronically submitted by and through the procedure stated on the website of the State of California Labor and Workforce Development Agency.

[X] STATE

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on October 17, 2024, at Pasadena, California.



Drew Mather