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on behalf of himself and all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF FRESNO

BRAULIO JAVIER, individually and on
behalf of himself and all others similarly
situated,

Plaintiff,

v.

HELENA AGRI-ENTERPRISES, LLC a
Delaware Limited Liability Company;
HELENA CHEMICAL COMPANY, a
Delaware Corporation; and DOES 1-50,
inclusive,

Defendants.

Case No. 22CECG02269

[Consolidated with Case No.: 22CECG03145]

CLASS AND REPRESENTATIVE ACTION

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
ACTION AND PAGA SETTLEMENT
AGREEMENT**

Date: July 2, 2024

Time: 3:30 p.m.

Dept.: 502

Judge: Hon. Kristi Culver Kapetan

Complaint Filed: July 27, 2022

FAC Filed: November 14, 2022

Trial Date: None Set

1 This matter came before the Court on Plaintiff Braulio Javier's ("Plaintiff") Motion for
2 Preliminary Approval of Class Action and PAGA Settlement Agreement, Approval of Class Notice,
3 and Conditional Certification of the Settlement Class (the "Preliminary Approval Motion"). The
4 Court considered the proposed Joint Stipulation and Settlement Agreement ("Settlement
5 Agreement" or "Settlement") attached as **Exhibit 1** to the Declaration of James Hawkins, the
6 submissions of counsel, and all other papers filed in this action. This Order incorporates, by
7 reference, the definitions in the Settlement. The matter having been submitted, and good cause
8 appearing therefore, this Court **HEREBY ORDERS THE FOLLOWING:**

9 1. The Settlement Agreement is hereby preliminarily approved. The Court finds that
10 the Settlement appears to be fair, adequate, and reasonable to Plaintiff and the Class, free of
11 collusion and indicia of unfairness, and within the range of possible judicial approval. The Court
12 also finds that the Settlement resulted from arm's length negotiations and is sufficient to warrant
13 the dissemination of Class Notice to Class Members.

14 2. Pursuant to California Code of Civil Procedure section 382 and California Rule of
15 Court 3.769, and for purposes of, and solely in connection with the Settlement, the Court finds that
16 each of the requirements for certification of the class set forth in the Preliminary Approval Motion
17 are met and hereby conditionally certifies the following Class: All current and former non-exempt
18 employees, employed by Defendant within the State of California during the Class Period.

19 3. The Court has considered the Settlement and the papers in support of the Preliminary
20 Approval Motion and finds that under the circumstances the proposed Class is proper and should
21 be certified, for settlement purposes only, under California Code of Civil Procedure section 382
22 and California Rule of Court 3.769. Specifically, the Court finds (a) that the Class is ascertainable;
23 (b) the Class is sufficiently numerous such that joinder of all members is impracticable; (c) there
24 are questions of law and fact common to the Class; (d) the named Plaintiff's claims are typical of
25 the claims of the Class; (e) the named Plaintiff and Plaintiff's counsel have and are able to
26 adequately represent the Class; and (f) class-wide treatment of this dispute is superior to other
27 available methods for adjudicating the controversy. It is therefore ordered that the Class is
28 conditionally certified for settlement purposes only.

1 4. The Court appoints and designates the Plaintiff Braulio Javier as the Class
2 Representative.

3 5. The Court appoints and designates James R. Hawkins and Christina M. Lucio of
4 James Hawkins, APLC as Class Counsel. Class Counsel is authorized to act on behalf of the Class
5 with respect to all acts or consents required by, or which may be given, pursuant to the Settlement,
6 and such other acts necessary to finalize the Settlement and its terms. Any Class Member may enter
7 an appearance through his or her own counsel at such Class Member's own expense. Any Class
8 Members who do not enter an appearance or appear on his or her own behalf will be represented
9 by Class Counsel.

10 6. The Court preliminarily approves the Settlement and the Gross Settlement Amount
11 (GSA) of \$600,000, with the Net Settlement Amount (NSA) to be paid to Participating Class
12 Members calculated by subtracting the following proposed amounts from the GSA: (1) Class
13 Counsel's Attorney Fee Award up to 35% of the GSA, (2) Class Counsel's Cost Award of up to
14 \$20,000, (3) a Class Representative Service Award Payment of up to \$10,000 to Plaintiff Braulio
15 Javier; (4) Administration Costs of up to \$15,000 to ILYM Group, Inc; and (5) the PAGA Payment
16 of \$16,000. The NSA is anticipated to be approximately \$329,000.00. There is no reversion to
17 Defendant.

18 7. The Court further preliminarily approves the formulas provided in the Settlement
19 Agreement for calculating Individual Settlement Shares to Participating Class Members and
20 Aggrieved Employees.

21 8. The Court finds on a preliminary basis that the Settlement, including the Class
22 Representative Service Award Payment, Class Counsel Attorney Fee Award, Class Counsel Cost
23 Award, Administration Costs, and the allocation of payments to Participating Class Members and
24 Aggrieved Employees, appears to be within the range of reasonableness of a settlement that could
25 ultimately be given final approval by this Court. It appears to the Court on a preliminary basis that
26 the Settlement is fair, adequate and reasonable as to all potential Class Members when balanced
27 against the probable outcome of further litigation relating to liability and damages issues. It also
28 appears that extensive and costly investigation, research and court proceedings have been

1 conducted so that counsels for the parties are able to reasonably evaluate their respective positions.
2 It appears to the Court that settlement at this time will avoid substantial additional costs by all
3 parties, as well as avoid the delay and risks that would be presented by the further prosecution of
4 this class action. It also appears that Settlement has been reached as result of intensive, serious and
5 non-collusive, arms-length negotiations.

6 9. The Court hereby approves, as to form and content, the Class Notice to be sent to
7 Class Members, which is attached as Exhibit A to the Settlement Agreement. The Court finds that
8 distribution of the Class Notice to the Class Members substantially in the manner and form set
9 forth in the Settlement and this Order meets the requirements of due process and shall constitute
10 due and sufficient notice to all parties entitled thereto.

11 10. The Court further finds the proposed Class Notice and method of distribution to the
12 Class to be the best means practicable of providing notice under the circumstances and when
13 completed shall constitute due and sufficient notice of the Action, proposed Settlement, and Final
14 Approval hearing to all persons affected by and/or authorized to participate in the Settlement, in
15 full compliance with due process and the requirements of the California Rules of Court and
16 California Code of Civil Procedure.

17 11. Class Members shall have 45 calendar days from the date of mailing to object to the
18 Settlement, request exclusion from the Settlement, or dispute the pay periods allocated and
19 identified in the Class Member's Notice, unless the Class Members' notice was remailed, in which
20 case the Class Member shall have an additional 10 calendar days from the date of remailing to
21 object, request exclusion, or dispute their number of pay periods.

22 12. The Court appoints IYLM Group, Inc. as the Settlement Administrator. The Court
23 hereby directs the Settlement Administrator to provide the approved Class Notice to Class Members
24 and administer the Settlement in accordance with the procedures set forth in the Settlement
25 Agreement.

26 13. The Court may adjourn or continue the date of the Final Approval Hearing and all
27 dates provided for in the Settlement without further notice to the Class and retains jurisdiction to
28 consider further applications concerning the Settlement. However, Class Counsel will give notice

1 to any objecting party of the continuance of any hearing on the motion for Final Approval.

2 14. The Court orders the following schedule for further proceedings:

3 a. No later than 15 calendar days after entry of the Preliminary Approval Order,
4 Defendant shall deliver to the Settlement Administrator an electronic database which will list for
5 each Class Member: (1) first and last name; (2) last known mailing address; (3) social security
6 number; (4) hire and termination dates; and (5) the total number of pay periods during which the
7 Class Member performed actual work during the Class Period as a member of the Class (the
8 "Database").

9 b. No later than 21 calendar days after entry of the Preliminary Approval Order, the
10 Settlement Administrator shall send the Class Notice to all Class Members.

11 c. No later than 45 calendar days after the mailing of the Class Notice, Class Members
12 may either: submit a written request for exclusion from the Settlement; submit a written objection
13 to the Settlement; or dispute the number of pay periods allocated to them in the Class Notice, all in
14 accordance with the Settlement Agreement.

15 d. No later than 14 calendar days after the Response Deadline, the Settlement
16 Administrator shall provide Class Counsel and Defense Counsel a declaration including a summary
17 of compliance with notice procedures, including the number of attempts to obtain valid mailing
18 addresses for and re-sending of any returned Class Notices, a list of all Class Members who sent
19 timely requests to be excluded from the Settlement or who objected to the settlement. The
20 declaration shall authenticate each request for exclusion and objection submitted.

21 g. A Final Approval Hearing shall be held before this Court on
22 _____ at _____ a.m./p.m. to determine all necessary matters
23 concerning the Settlement, including, whether this Court should grant final approval, whether there
24 should be any Attorney Fee and Cost Award and/or Class Representative Service Award Payment,
25 and the amounts of any such award.

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15. Any objecting Participating Class Member may appear, in person or by counsel, at the Final Approval Hearing to show cause why the Settlement should not be approved as fair, adequate, and reasonable, or to object to any request for an Attorney Fee and Cost Award and/or Class Representative Service Award Payment.

IT IS SO ORDERED.

Dated:

HON. KRISTI CULVER KAPETAN
JUDGE OF THE SUPERIOR COURT