

| SUPERIOR COURT OF CALIFORNIA<br>COUNTY OF TULARE                                                                        |                                                                                  |                                                                                                                                                    |                                    |
|-------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------|
| <b>Jimenez, Ulises</b><br>Plaintiff/Petitioner,<br><br>vs.<br><br><b>Delta View Farms, LLC</b><br>Defendant/Respondent. |                                                                                  | Jud. Officer: <b>Bret Hillman</b><br>Clerk: <b>Mark Dimas</b><br>Bailiff: <b>R Nash</b><br>CSR: <b>Tamara Sumpter</b><br>Interpreter:<br>Language: |                                    |
| Minutes:                                                                                                                | <b>Motion Hearing<br/>Final Approval of Class Action and PAGA<br/>Settlement</b> | Case No.                                                                                                                                           | <b>VCU293548<br/>Department 02</b> |
| Date:                                                                                                                   | <b>September 10, 2024</b>                                                        | Related Cases:                                                                                                                                     |                                    |

Appearances: ☒ No Appearances  
☐ Party: \_\_\_\_\_  
☐ Remote Appearance  
☐ Party: \_\_\_\_\_  
☐ Remote Appearance  
☐ Party: \_\_\_\_\_  
☐ Remote Appearance  
☐ Other: \_\_\_\_\_  
☐ Remote Appearance

☐ Attorney: \_\_\_\_\_  
☐ Remote Appearance  
☐ Attorney: \_\_\_\_\_  
☐ Remote Appearance  
☐ Attorney: \_\_\_\_\_  
☐ Remote Appearance

☒ Case called at 08:39 AM.

**Motion:** Motion for Final Approval of Class Action and PAGA Settlement

☒ No requests for oral argument presented.

**ORDER:** The Court adopts the Tentative Ruling as the Order of the Court as follows:

**TENTATIVE RULING:** To grant the motion, approve the final class action settlement including fees, costs and service awards. Final Compliance Hearing is set for **March 9, 2025**, 8:30 am in Department 2.

Plaintiff's motion for final approval of class action and PAGA settlement, attorneys' fees, costs, enhancement award, LWDA payment and class certification for settlement purposes came on for hearing on September 10, 2024. The Court finds and rules as follows:

On June 18, 2024, the settlement administrator Phoenix, through its Case Manager, filed a declaration detailing the following events.

On March 12, 2024, the administrator received a mailing list of 149 potential class members from Defendant's counsel with names, contact information, social security numbers and relevant employment information. On the same date, after the administrator processed the names through the National Change of Address Database and updated the list with any updated addresses located, the administrator sent class notice by mail. Of the twenty (20) returned notices, twelve (12) updated addresses were obtained. Therefore, eight (8) notice packets have been deemed undeliverable.

Class members had sixty (60) days, until May 28, 2024, to submit objections, disputes and/or requests for exclusions. Zero (0) request for exclusion and zero (0) valid objections have been received from class members. Therefore, 149 class members or 100% of the class will participate in the settlement.

The Court presumes the settlement is fair and reasonable given (a) that it was reached through arms-length bargaining at mediation, (b) that there was sufficient time for investigation and discovery since commencement of litigation on September 29, 2022 (c) class counsel have particularized experience with the claims at issue in the case, and (d) there appear to be zero disputes and zero objections. (*Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4<sup>th</sup> 1794, 1802 )

A net settlement amount of \$131,126.90 is available to pay to the class members in accordance with the terms of settlement, with an average individual share of at least \$660.25 per class member, and the highest estimated share of \$5,414.48. The Court believes basic information about the nature and magnitude of the claims in question and the basis for concluding that the consideration being paid for the release of those claims represents a reasonable compromise under the circumstances, in accordance with *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4<sup>th</sup> 116, 133. This case involved extensive informal discovery and investigation of disputed claims, including review and analysis by Plaintiff's expert. The settlement avoids significant risks and delay that would result from further litigation of the case, which would include, amongst other matters, certification proceedings, trial, and the possibility of further delay and cost resulting from appeals.

Class counsel has provided a number of declarations in further support of the requests for attorney fees 33.3% of the gross settlement fund of \$270,000 or \$90,000. Adequate information has been provided for a lodestar analysis of the attorneys' fees request.

Counsel indicates that the firm has spent 276 hours on this case, at rates ranging from \$550 to \$150 per hour totaling a lodestar of \$112,612.50, resulting in a negative lodestar multiplier of .8. (Declaration of Larsen ¶20.)

Counsel has additionally provided sufficient cost information indicating actual costs incurred in the amount of \$11,123.10, a little more than half of the \$20,000 the Court preliminarily approved. (Declaration of Larsen ¶23.)

The Court believes the requested attorney fees and costs appear reasonable under the circumstances. Additionally, counsel has provided a sufficient declaration to demonstrate adequate previous experience with class actions to further support the reasonableness of the award.

The settlement administrator has provided, in the declaration describing the work it has performed on the case, a value of services totaling \$7,750, which is amount that was estimated in the motion for preliminary approval. The Court believes the amount requested as compensation for the administrator appears reasonable.

The Court previously preliminarily approved a representative payment of \$5,000 and believes that the requested class representative payment is appropriate under the circumstances. Enhancement payments "are fairly typical in class action cases." (*Cellphone Termination Fee Cases* (2010) 180 Cal.App.4<sup>th</sup> 1110, 1393.)

The State of California Unclaimed Property Fund is designated as the cy pres recipient in accordance with Code of Civil Procedure section 384 as to any unclaimed proceeds. (Code Civ. Proc. § 384.)

Finally, the Court confirms its conditional certification of the settlement class. The Court finds no significant events have occurred that would cause it to change its prior determination that the settlement class met all requirements under Code of Civil Procedure section 382 for certification for settlement purposes at the time it granted Plaintiff's motion for preliminary approval.

On review of the declarations and pleadings submitted, the Court finds, given the established presumption that the settlement is fair and reasonable under the circumstances of this case, and, particularly, given the absence of any objection or opposition following the class notice, that the settlement is fair and reasonable and that the motion for final approval should be, and is hereby, granted.

The approved deductions from the gross settlement amount of \$270,000 are as follows:

|                                       |                     |
|---------------------------------------|---------------------|
| Approved Attorney Fees (33.3%):       | \$90,000.00         |
| Attorney Costs (actual):              | \$11,123.10         |
| Enhancement Payment to Plaintiff:     | \$5,000.00          |
| Settlement Administrator Costs        | \$7,750.00          |
| PAGA Payment (Total)                  | \$25,000.00         |
| <b>Approved Net Settlement Amount</b> | <b>\$131,126.90</b> |

The Court shall enter its order of final approval and judgment in this case on the proposed form submitted by Plaintiff on June 18, 2024, and orders that notice of entry of judgment be given as provided in the judgment following entry thereof.

Final Compliance Hearing is set for March 9, 2025, 8:30 am in Department 2.

☒ Clerk to provide notice to parties by mail.

**LATER OFF THE RECORD:**

☒ Court finds that March 09, 2025, is a Sunday.

☒ **Final Approval of Class Action and PAGA Settlement scheduled for March 07, 2025, at 08:30 AM in Department 02.**