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ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 08/02/2023
By Deputy: Sefick, Lorena

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF MONTEREY**

PERLA FELICIANO, individually, and on
behalf of all others similarly situated,

Plaintiff,

vs.

TRUE ORGANIC PRODUCTS, INC., a
California corporation; and DOES 1 through 10,
inclusive,

Defendants

Case No.: 22CV003076

**AMENDED ~~PROPOSED~~ ORDER AND
JUDGMENT GRANTING PLAINTIFF'S
MOTION TO APPROVE SETTLEMENT
AGREEMENT AND RELEASE OF PAGA
CLAIMS PURSUANT TO LABOR CODE
SECTIONS 2698 ET SEQ.**

Date: July 28, 2023
Time: 8:30 a.m.

Complaint filed: October 11, 2022
Trial date: Not set

*Filed with Notice and Motion to Approve
Settlement and Declaration of Kane Moon*

AMENDED ~~PROPOSED~~ ORDER AND JUDGMENT GRANTING PLAINTIFF'S MOTION TO
APPROVE SETTLEMENT AGREEMENT AND RELEASE OF PAGA CLAIMS PURSUANT TO
LABOR CODE SECTIONS 2698 ET SEQ.

ORDER

The Court having considered Plaintiff's Notice of Motion and Motion for Approval of PAGA Settlement ("Motion"), the supporting declaration and exhibits thereto, all papers filed and proceedings had herein, and the absence of any written objections received regarding the proposed Settlement, and having reviewed the record in the Action, and good cause appearing,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

1. The Court, for purposes of this Final Order and Judgment, refers to all defined terms as set forth in the PAGA Representative Action Settlement Agreement and Release attached as Exhibit "A" to the Declaration of Kane Moon (the "Settlement").

2. The Court finds that it has jurisdiction over the subject matter of the action and over all Parties to the action, including all PAGA Settlement Members;

3. The Court finds that Plaintiff has properly exhausted her administrative remedies to proceed with this action;

4. The Court finds that Plaintiff submitted the Settlement and Motion to Approve Settlement Agreement and Release of PAGA Claims to the California Labor Workforce Development Agency ("LWDA") on May 9, 2023, thereby satisfying the administrative requirements for seeking approval of the Settlement;

5. The Court has considered all relevant factors for determining the fairness of the Settlement and has concluded that all such factors weigh in favor of approving the Settlement. In particular, the Court finds that the Settlement was reached following meaningful discovery conducted by Plaintiff; that the Settlement is the result of serious, informed, adversarial, and arm's-length negotiations between the Parties; and that the terms of the Settlement are in all respects fair, adequate, and reasonable. In so finding, the Court has considered all evidence presented, including evidence regarding the strength of Plaintiff's PAGA claims; the risk, expense, and complexity of the claims presented; the likely duration of further litigation; the amount offered in settlement; the extent of investigation and discovery completed; and the

1 experience and views of counsel. The Parties have provided the Court with sufficient
2 information about the nature and magnitude of the claims being settled, as well as the
3 impediments to recovery, to make an independent assessment of the reasonableness of the terms
4 to which the Parties have agreed;

5 6. Accordingly, the Settlement is hereby accepted and approved;

6 7. Plaintiff and all PAGA Settlement Members shall have, by operation of this Final
7 Order and Judgment, fully, finally, and forever released, relinquished, and discharged the
8 Released Parties from all Released Claims as follows:

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10 **“Released PAGA Claims”** means all claims for relief under PAGA, of
11 whatever kind or nature, that were or could have been asserted based on the
12 facts alleged by Plaintiff in her October 7, 2022 notice letter to the LWDA
13 including, but not limited to, Labor Code sections 201, 202, 203, 204, 210,
210, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1197.1, 1197.1,
1198, 2802, 2699(f)(2), and the applicable IWC Wage Orders, and any
resulting claim for attorneys’ fees and costs under PAGA.

14 **“Released Parties”** shall mean Defendant, and each of its respective current
15 and former, direct and indirect owners, parents, subsidiaries, brother-sister
16 companies, and all other affiliates and related entities, and their current and
17 former partners, officers, directors, employees, attorneys, agents, and other
related parties.

18 8. This Judgment shall be binding on all PAGA Settlement Members and the State
19 of California, who are hereby barred by the doctrine of res judicata from re-litigating the
20 Released PAGA Claims that accrued during the PAGA Period.

21 9. In addition, Plaintiff also releases all claims, whether known or unknown, to the
22 fullest extent permitted by law, against the Released Parties and waives all rights under
23 California Civil Code section 1542, as set forth in the Settlement.

24 10. The Parties shall bear their own respective attorneys’ fees and costs, except as
25 otherwise provided for in the Settlement and approved by the Court.

26 11. “PAGA Period” refers to the period of October 7, 2021 through April 11, 2023.
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1 12. The Settlement is not an admission by Defendant as defined below, nor is this
2 Order a finding of the validity of any allegations or of any wrongdoing by Defendant. Neither
3 this Order, the Settlement, nor any document referred to herein, nor any action taken to carry
4 out the Settlement, may be used as an admission of any fault, wrongdoing, omission, concession,
5 or liability whatsoever by or against Defendant.

6 13. The Settlement Administrator will pay, pursuant to the terms of the Settlement:

- 7 a. Actual administration costs of up to \$3,750.00, payable to the Settlement
8 Administrator Phoenix Class Action Settlement Administrators for the
9 administration of the Settlement;
- 10 b. Attorneys' fees to Plaintiff's Counsel in the amount of \$58,113.33 (33 1/3%);
- 11 c. Reimbursement for actual costs incurred by Plaintiff's Counsel in the amount of
12 \$16,712.03;
- 13 d. \$6,000.00 to the named Plaintiff in exchange for her general release;
- 14 e. The remaining amount of the Gross Settlement Amount, which shall be
15 allocated as set forth in Labor Code § 2699(d), with 75% allocated to the
16 LWDA, and the remaining 25% to the PAGA Settlement Members on a pro-
17 rata basis based on the proportional number of pay periods worked by each
18 PAGA Settlement Member during the PAGA Period, as provided for in the
19 Settlement.

20 14. The Court finds that these amounts and the distribution formula set forth in the
21 Settlement is fair, adequate, and reasonable, and orders that payment be made to the LWDA
22 and the PAGA Settlement Members per the terms of the Settlement. The Settlement
23 Administrator shall issue an IRS Form 1099 to each PAGA Settlement Member for their
24 Individual Settlement Payment as needed.

25 15. PAGA Settlement Members shall have 180 calendar days to cash their
26 settlement payment checks. If any PAGA Settlement Member's check is not cashed within
27 that period, the settlement payment check will be voided and a stop-payment will be issued.

Neither Defendant, Defendant's counsel, Plaintiff, nor PAGA Counsel will have any liability for lost or stolen settlement payment checks, forged signatures on settlement payment checks, unauthorized negotiation of settlement payment checks or failure to timely cash a settlement payment check within the 180 day period. Any unpaid cash residue or unclaimed Aggrieved Employee funds, plus any accrued interest that has not otherwise been distributed pursuant to order of the Court, shall be transmitted to California State Controller's Office for Unclaimed Property in the name of each Aggrieved Employee who failed to cash their Individual PAGA Payment prior to the void date.

16. "Effective Date" refers to the date upon which both of the following have occurred: (i) approval of the Settlement is granted by the Superior Court of California for the County of Monterey, or other court assuming jurisdiction of this matter, and (ii) the Court's Judgment approving the Settlement becomes Final.

17. "Final" shall mean the latest of: (i) if there is an appeal of the Court's Judgment, the date the Judgment is affirmed on appeal, the date of dismissal of such appeal, or the expiration of the time to file a petition for writ of certiorari to the United States Supreme Court or California Supreme Court; (ii) if a petition for writ of certiorari is filed, the date of denial of the petition for writ of certiorari, or the date the Judgment is affirmed pursuant to such petition; or (iii) if no appeal is filed, the expiration date of the time for filing or noticing any appeal of the Judgment; i.e., sixty-one (61) calendar days have passed from entry of the Judgment.

18. Defendant shall deposit the Gross Settlement Amount into the Qualified Settlement Fund established by the Settlement Administrator within fourteen (14) calendar days after the Effective Date.

19. On the Payment Date, the Settlement Administrator will pay from the Gross Settlement Amount to PAGA Counsel its Court-approved Attorneys' Fees and Costs.

1 20. On the Payment Date, the Settlement Administrator will pay the LWDA
2 Payment from the Net Settlement Amount by issuing a check payable to “California Labor
3 Workforce and Development Agency.”

4 21. The Court hereby confirms Kane Moon, and Enzo Nabiev of Moon & Yang, APC
5 as PAGA Counsel.

6 22. The Court finds that the fees requested by Plaintiff’s Counsel of \$58,113.33 (33
7 1/3%) of the total settlement amount is reasonable, and the costs requested of up to \$19,000.00
8 were reasonable and necessary for the prosecution of this action. The Court hereby awards
9 attorney’s fees of \$58,113.33 and costs of \$16,712.03 to Plaintiff’s Counsel for their litigation
10 costs. The payment of fees and costs to Plaintiff’s Counsel shall be made in accordance with
11 the terms of the Settlement.

12 23. The Court approves Phoenix Class Action Settlement Administration as the
13 Settlement Administrator.

14 24. The Court approves of the proposed letter attached to the Settlement as Exhibit
15 A as an Exhibit to be sent to PAGA Members along with their respective settlement check.

16 25. This action is dismissed with prejudice.

17 26. Plaintiff shall submit a copy of this Order and Judgment to the LWDA within ten
18 calendar days after entry of the Order and Judgment.

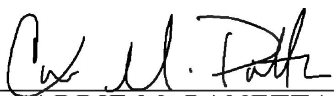
19 27. Without affecting the finality of the Order and Judgment, this Court shall retain
20 jurisdiction, pursuant to California Code of Civil Procedure section 664.6, over this action, the
21 Parties, and the PAGA Settlement Members to the fullest extent necessary to interpret, enforce,
22 and effectuate the terms and intent of the Settlement and this Order and Judgment.

23 28. The Court sets a status conference re: final accounting for 3/5, 2024. At
24 least nine court days prior to the hearing, Plaintiff shall submit a final report including the actual
25 amounts paid to aggrieved employees, the other amounts distributed under the settlement, and
26 the amounts tendered to the Unclaimed Property Division

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IT IS SO ORDERED.

DATED: 7/28/2023



HON. CARRIE M. PANETTA
MONTERREY COUNTY SUPERIOR COURT

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA)
3 COUNTY OF LOS ANGELES) ss

4 I am employed in the county of Los Angeles, State of California. I am over the age of
5 18 and not a party to the within action; my business address is 1055 W. 7th Street, Suite 1880,
6 Los Angeles, California 90017. On July 28, 2023, I served the foregoing document described
7 as:

8 **AMENDED [PROPOSED] ORDER AND JUDGMENT GRANTING PLAINTIFF'S
9 MOTION TO APPROVE SETTLEMENT AGREEMENT AND RELEASE OF PAGA
10 CLAIMS PURSUANT TO LABOR CODE SECTIONS 2698 ET SEQ.**

11 X by placing ___ the original X a true copy thereof enclosed in sealed envelope(s)
12 addressed as follows:

13 Andrew H. Swartz
14 **SWARTZ & KENNEDY LAW OFFICES**
15 550 Hartnell Street, Suite A-1
16 Monterey, CA 93940-2816
17 Andy@SwartzKennedyLaw.com

18 *Attorneys for Defendant True Organic Products Inc.*

19 [✓] **BY E-MAIL:** I hereby certify that this document was served from Los Angeles,
20 California, by e-mail delivery on the parties listed herein at their most recent known
21 e-mail address or e-mail of record in this action.

22 X (State) I declare under penalty of perjury under the laws of the State of
23 California that the above is true and correct.

24 Executed on July 28, 2023, at Los Angeles, California.

25 Ximena Reyes

26 /s/ Ximena Reyes

27 Name

28 Signature