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11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **FOR THE COUNTY OF SONOMA**

13 JOSE VASQUEZ RUIZ, as an individual
14 and on behalf of all others similarly
15 situated,

16 Plaintiff,

17 vs.

18 PERDUE FOODS, LLC., a Maryland
19 limited liability company; and DOES 1
20 through 50, inclusive,

21 Defendants.
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Case No.: SCV-264649

**[PROPOSED] ORDER GRANTING
PLAINTIFF'S MOTION FOR FINAL
APPROVAL OF CLASS ACTION AND PAGA
SETTLEMENT**

Date: May 12, 2021

Time: 3:00 P.M.

Dept.: 16

1 Named Plaintiff Jose Vasquez Ruiz and Defendant Perdue Foods, LLC (collectively, the
2 “Parties”) have entered into a Joint Stipulation of Class Action and PAGA Settlement and Release
3 of Claims (“Settlement Agreement” or “Joint Stipulation”) to settle the above-captioned class and
4 PAGA representative action subject to the Court’s final approval (the “Settlement”). The
5 Settlement provides for the payment of compensation to each Settlement Class Member who does
6 not opt out of the Settlement.

7 **I. BACKGROUND**

8 **A. Procedural History**

9 Plaintiff Jose Vasquez Ruiz (“Plaintiff”) filed a class and PAGA representative action
10 complaint against Defendant Perdue Foods, LLC (“Defendant”) on June 17, 2019, and the
11 operative First Amended Complaint (“Complaint”) on August 24, 2019. Plaintiff alleges that
12 Defendant failed to provide accurate itemized wage statements to putative class members and
13 seeks penalties under the California Private Attorneys General Act. Plaintiff seeks to represent all
14 current and former non-exempt employees of Defendant in the State of California who were paid
15 overtime or double overtime wages at any time from May 26, 2019 through July 17, 2020.

16 The Parties exchanged formal and informal discovery, and through arm’s length
17 negotiations conducted over the course of several months reached an agreement in principle to
18 settle all of Plaintiff’s class and representative action claims. On or about September 8, 2020, the
19 Parties executed the Joint Stipulation setting forth the terms of the Settlement.

20 **B. Investigation in the Class Action**

21 Class Counsel conducted a thorough investigation into the facts of the Lawsuit, including
22 formal and informal discovery and a review of company documents and information, including
23 payroll data regarding the number of putative class members and wage statements at issue. Class
24 Counsel is knowledgeable about and has done extensive research with respect to the applicable
25 law and potential defenses to the claims of the Settlement Class.

26 **C. Benefits to Settlement Class Members**

27 Plaintiff has considered the expense, risk, and length of continued proceedings necessary to
28 continue the Lawsuit against Defendant through certification, trial, and any possible appeals.

1 Plaintiff has also considered the uncertainty and risk of the outcome of further litigation,
2 Defendant's opposition to any motion for class certification, and the difficulties and delays
3 inherent in such litigation, including those involved in class certification. Plaintiff is also aware of
4 the burdens of proof necessary to establish liability for the claims asserted in the Lawsuit and
5 Defendant's defenses thereto. Plaintiff has also considered the settlement negotiations conducted
6 by the Parties. Based on the foregoing, Plaintiff has determined that the Settlement set forth in the
7 Stipulation of Settlement is fair, adequate, and reasonable, and is in the best interests of the
8 Settlement Class.

9 **D. Settlement Class**

10 "Settlement Class" means the class and the PAGA group and consists of all current and
11 former non-exempt employees of Defendant in the State of California who were paid overtime or
12 double overtime wages at any time from May 26, 2019 through July 17, 2020. Members of the
13 Settlement Class are "Settlement Class Members."

14 **E. Settlement Class Released Claims**

15 The Settlement fully releases and discharges the Released Parties from the "Released
16 Claims," which are "(a) all claims, including penalties, costs and attorneys' fees related thereto,
17 that could have been brought under the facts and allegations made in the operative First Amended
18 Class and Representative Action Complaint, including claims for violation of Labor Code section
19 226, that accrued during the Class Period; and (b) all claims for penalties under the California
20 Private Attorneys General Act, including costs and attorneys' fees related thereto, that could have
21 been brought under the facts and allegations made in the operative First Amended Class and
22 Representative Action Complaint, including claims for violation of Labor Code section 226, that
23 accrued during the Class Period."

24 The "Released Parties" are Defendant Perdue Foods, LLC and all of Defendant's past,
25 present and/or future, direct and/or indirect, officers, directors, employees, agents, representatives,
26 partners, investors, shareholders, administrators, parent companies, partners, subsidiaries,
27 affiliates, divisions, predecessors, successors, assigns, benefits plans, and joint venturers.

1 **F. Defendant's Denials of Wrongdoing**

2 Defendant denies any liability and wrongdoing of any kind associated with the claims
3 alleged in the Lawsuit and believes it has valid defenses to Plaintiff's claims. Defendant further
4 denies that the Lawsuit is appropriate for class treatment for any purpose other than this
5 Settlement. Defendant contends that it has complied at all times with the California Labor Code
6 and the Industrial Welfare Commission Wage Orders. Neither the Joint Stipulation, nor any
7 document referred to or contemplated herein, nor any action taken to carry out the Joint
8 Stipulation, may be construed as, or may be used as an admission, concession or indication by or
9 against Defendant of any fault, wrongdoing or liability whatsoever, or of any concession that
10 certification of a class other than for purposes of this Settlement would be appropriate in this or
11 any other case.

12 **G. Operation of the Settlement**

13 Pursuant to the Preliminary Approval Order dated February 4, 2021, this Court
14 conditionally certified the Settlement Class as a class and granted preliminary approval of the
15 Settlement. The Preliminary Approval Order also approved of the proposed forms of Notice and
16 procedure for providing notice. The Court entered the Preliminary Approval Order after review
17 and consideration of all of the pleadings filed in connection therewith, and the oral presentations
18 made by counsel at the hearing.

19 In compliance with the Preliminary Approval Order, the Class Notice was sent to all Class
20 Members via first class mail. Furthermore, follow-up mailings were performed for returned Class
21 Notices. The notice procedure was timely completed.

22 This matter is now before the Court on Plaintiff's Motion for Final Approval of the Class
23 Action and PAGA Settlement, including approval of PAGA Payment to the LWDA, Class
24 Representative Service Award, payment to the Settlement Administrator, and Class Counsel
25 Award of attorneys' fees and costs. The Court has read, heard, and considered all the pleadings and
26 documents submitted, and the presentations made in connection with the Motion for Final
27 Approval and related papers, which came for hearing on May 12, 2021.

28 This Court finds that the Settlement appears to be the product of serious, informed, non-

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

7 [Q]uestions of law or fact common to the members of the class predominate over
8 any questions affecting only individual members, and that a class action is superior
9 to the available methods for the fair and efficient adjudication of the controversy ...
Fed. R. Civ. Proc. 23.

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

11 Based on the foregoing, **IT IS HEREBY ORDERED THAT:**

12 This Court has jurisdiction over the claims of the Settlement Class Members asserted in
13 this proceeding and over all Parties to the Lawsuit.

14 For the reasons set forth in the Preliminary Approval Order and preliminary approval
15 hearing, which are adopted and incorporated herein by reference, this Court finds that the
16 applicable requirements of the California Code of Civil Procedure § 382, and Rule 3.769 of the
17 California Rules of Court have been satisfied with respect to the Settlement Class and the proposed
18 Settlement. The Court hereby makes final its earlier provisional certification of the Settlement
19 Class as a class, as set forth in the Preliminary Approval Order.

20 The Notice given to the Settlement Class Members fully and accurately informed the
21 Settlement Class Members of all material elements of the proposed Settlement and of their
22 opportunity to object to or comment thereon; was the best notice practicable under the
23 circumstances; was valid, due and sufficient notice to all Settlement Class Members; and complied
24 fully with the laws of the State of California, the United States Constitution, due process and other
25 applicable law. The Notice fairly and adequately described the Settlement and provided Settlement
26 Class Members adequate instructions and a variety of means to obtain additional information. A
27 full opportunity has been afforded to the Settlement Class Members to participate in this hearing,
28 and all Settlement Class Members and other persons wishing to be heard, if any, have been heard.

1 Accordingly, the Court determines that all Settlement Class Members who did not timely and
2 validly submit an Exclusion Form are bound by this Order.

3 Pursuant to California law, the Court hereby grants final approval of the Settlement and
4 finds it reasonable and adequate, and in the best interests of the Settlement Class as a whole. More
5 specifically, the Court finds that the Settlement was reached following a meaningful investigation
6 conducted by Class Counsel; that the Settlement is the result of serious, informed, adversarial, and
7 arm's-length negotiations between the Parties; and that the terms of the Settlement are in all
8 respects fair, adequate, and reasonable. In so finding, the Court has considered all of the evidence
9 presented, including evidence regarding the strength of the Plaintiff's case; the risk, expense, and
10 complexity of the claims presented; the likely duration of further litigation; the amount offered in
11 Settlement; the extent of investigation and discovery completed; and the experience and views of
12 Class Counsel. The Court further has considered the absence of objections to the Settlement by
13 Settlement Class Members, as well as the absence of exclusion letters to the Settlement.

14 Accordingly, the Court hereby directs that the Settlement be affected in accordance with the
15 Stipulation of Settlement and the following terms and conditions.

16 It is hereby ordered that the Settlement Administrator shall pay the Individual Settlement
17 Payments to the Settlement Class Members who did not opt out according to the methodology set
18 forth in the Joint Stipulation.

19 It is hereby ordered that the Settlement Administrator shall pay the Class Representative
20 Service Award of \$10,000.00 to named Plaintiff Jose Vasquez Ruiz because the Court finds the
21 Service Award is fair and reasonable for the work he provided to the Settlement Class Members
22 and in exchange for a general release.

23 It is hereby ordered that the Settlement Administrator shall pay the PAGA Payment of
24 \$15,000.00 to the Labor and Workforce Development Agency and distribute \$5,000.00 pro rata to
25 the Settlement Class to pay all applicable penalties under the California Labor Code's Private
26 Attorneys General Act.

27 It is hereby ordered that the Settlement Administrator, Phoenix Class Action
28 Administration Solutions, shall pay itself a payment of \$9,500.00 for the services performed in

1 administering the Settlement.

2 The Court hereby awards \$286,412.50 in attorneys' fees, costs, plus its actual out-of-pocket
3 costs, \$3,088.63 to Class Counsel, Diversity Law Group, P.C. and Polaris Law Group. The Court
4 finds that the requested award is reasonable for a contingency fee in a class and representative
5 action such as this; i.e., 33 1/3% of the Maximum Settlement Amount of \$859,237.50. In addition,
6 the Court finds that the requested Class Counsel Award is reasonable in light of the lodestar
7 crosscheck. In conjunction with making these findings and doing a lodestar analysis, the Court has
8 determined that the billing rates of Class Counsel are reasonable and commensurate with market
9 rates in Sonoma County and approves those rates. No other costs or fees relief shall be awarded,
10 either against Defendant or the Released Parties, or from the award to the Settlement Class.

11 With this Final Approval of the proposed Settlement, it is hereby ordered that Settlement
12 Class Members and their successors shall conclusively be deemed to have given a release, as set
13 forth in the Joint Stipulation and above, against the Released Parties, and all such Settlement Class
14 Members and their successors shall be permanently enjoined and forever barred from asserting any
15 claim related to this Lawsuit against the Released Parties.

16 Neither the making of the Joint Stipulation nor the entry into the Joint Stipulation
17 constitutes an admission by Defendant, nor is this Order a finding of the validity of any claims in
18 the Complaint or of any other wrongdoing. Further, the Joint Stipulation is not a concession, and
19 shall not be used as an admission of any wrongdoing, fault, or omission of any entity or persons;
20 nor may any action taken to carry out the terms of the Joint Stipulation be construed as an
21 admission or concession by or against Defendant or any related person or entity.

22 **IT IS SO ORDERED.**

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24 DATED: _____

25 HON. PATRICK M. BRODERICK
26 SUPERIOR COURT OF CALIFORNIA
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