

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SONOMA

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

Plaintiff,

vs.

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

Defendants.

Case No.: SCV-264649

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

Date: May 12, 2021

Time: 3:00 P.M.

Dept.: 16

1 This matter is on calendar for the motion of Plaintiff Jose Vasquez Ruiz ("Plaintiff") for an
2 order (1) granting final approval of the Joint Stipulation of Class Action and PAGA Settlement and
3 Release of Claims in this action ("Settlement Agreement" or "Joint Stipulation"); (2) approving
4 distribution of the settlement funds to the Class Members pursuant to the terms of the Settlement
5 Agreement; (3) approving Plaintiff's request for a Class Representative Service Award of \$10,000;
6 (4) approving Class Counsel's request for an award of attorneys' fees in the amount of
7 \$286,412.50, and reimbursement of litigation costs of \$3,088.63; (5) approving Plaintiffs request
8 for payment of the settlement administration costs to Phoenix Settlement Administrators in the
9 amount of \$9,500; (6) approving Plaintiffs request for payment to the LWDA in the amount of
10 \$15,000; and (7) entering final judgment as to all members of the Settlement Class in this action.
11 The motion is GRANTED.

12 After preliminary approval, the Court determines whether the settlement is fair, adequate
13 and reasonable in a final hearing. (Cal. Rules of Court, rule 3.769(g); *Dunk v. Ford Motor Co.*
14 (1996) 48 Cal.App.4th 1794, 1801; *see also, Officers for Justice v. Civil Service Com.* (9th Cir.
15 1982) 688 F.2d 615, 625; Fed. Rule of Civ. Proc., Rule 23(e).) The trial court has broad powers to
16 determine whether the settlement is fair. (*Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794,
17 1801; *Mallick v. Superior Court* (1979) 89 Cal.App.3d 434.) The purpose of this requirement is
18 "the protection of those class members, including the named plaintiffs, whose rights may not have
19 been given due regard by the negotiating parties." (*Officers for Justice v. Civil Service Com.*,
20 *supra*, 688 F.2d at 624.)

21 The court should, according to *Dunk, supra*, 48 Cal.App.4th 1801, consider relevant
22 factors, such as the strength of plaintiffs' case, the risk, expense, complexity and likely duration of
23 further litigation, the risk of maintaining class action status through trial, the amount offered in
24 settlement, the extent of discovery completed and the stage of the proceedings, the experience and
25 views of counsel, the presence of a governmental participant, and the reaction of the class
26 members to the proposed settlement. However, the list is not fixed and the factors which the court
27 considers must be tailored to each case. (*Dunk, supra*, 48 Cal.App.4th 1801.)

28 Ultimately, "the inquiry 'must be limited to the extent necessary to reach a reasoned

1 judgment that the agreement is not the product of fraud or overreaching by, or collusion between,
2 the negotiating parties, and that the settlement, taken as a whole, is fair, reasonable and adequate to
3 all concerned.’ [Citation.]” *Ibid.* The determination is in the end “an amalgam of delicate
4 balancing, gross approximations and rough justice.” (*Officers for Justice v. Civil Service Com.*
5 (9th Cir.1982) 688 F.2d 615, 625; *see also, Dunk, supra*, 48 Cal.App.4th 1801, quoting *Officers*
6 *for Justice, supra.*)

7 The party seeking settlement approval has the burden of showing the settlement is “fair and
8 reasonable” but that nevertheless “there is a presumption of fairness when: (1) the settlement is
9 reached through arm's-length bargaining; (2) investigation and discovery are sufficient to allow
10 counsel and the trial court to act intelligently; (3) counsel is experienced in similar litigation; and
11 (4) the percentage of objectors is small.” (*Reed v. United Teachers Los Angeles* (2012) 208
12 Cal.App.4th 322, 336-337; *see also, Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43; *Dunk v.*
13 *Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801.)

14 **Objections/Challenges**

15 Notices were sent to all class members. (Kruckenberg decl., ¶¶2-5.) Twenty-eight Notice
16 Packets were returned. (*Id.* at ¶6.) Three were returned with no forwarding address and twenty-
17 five were returned with a forwarding address. (*Id.* at ¶6.) After skip tracing efforts, twenty-three
18 updated addresses were obtained and Notice Packets were mailed to those addresses. (*Ibid.*) No
19 objections or requests for exclusions have been received. (*Id.* at ¶¶8, 9.)

20 **The Net Settlement Amount**

21 The Net Settlement Fund consists of \$535,236.37. (Kruckenberg decl., ¶11.) After
22 deducting fees, costs, and penalties, eligible class members will receive approximately
23 \$348,126.06. (*Ibid.*) The highest individual settlement payment will be approximately \$1,565.09,
24 and the lowest individual settlement payment will be approximately \$23.36, with the average
25 individual settlement payment to be paid being approximately \$929.23. (*Ibid.*)

26 **The Settlement Terms**

27 Settlement covers all current and former non-exempt employees of Defendant in California
28 who were paid overtime or double overtime from May 26, 2019 through July 17, 2020, a total of

1 about 576 class members. Defendants are to pay a Maximum Settlement Amount of \$859,237.50,
2 distributed to all who do not opt out. The amount each member receives will be based on the
3 number of pay periods in which the employee received a wage statement with overtime or double
4 overtime wages. The Settlement allocates \$20,000 in PAGA penalties and 75% of this amount, or
5 \$15,000, will be paid to the LWDA with the remainder distributed to the class members.

6 **Attorney's Fees and Costs**

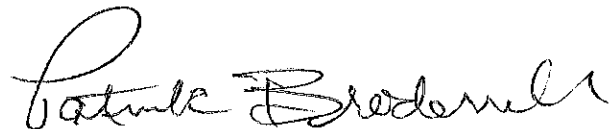
7 The Settlement provides that Class Counsel's fees and costs shall be paid from the net
8 settlement fund, in an amount of \$286,412.50 in fees and \$3,088.63 in costs. (Kruckenberg decl.,
9 ¶11; Lee decl., ¶10.) The fee award equals 33.33% of the settlement amount and appears fair and
10 reasonable. (See generally, *Laffitte v. Robert Half Int'l Inc.* (2016) 1 Cal.5th 480.) Class Counsel
11 are experienced in employment law and class actions. (Marder decl., Lee decl.; Agnew decl.;
12 Rosenthal decl.) The Plaintiff seeks \$10,000 as a Class Representative Service Award and \$9,500
13 for the Claims Administrator. Plaintiff has provided evidence that he participated in the case,
14 helping facilitate the settlement and justifying a service award. (Vasquez decl., ¶¶4-6.)

15 **Conclusion**

16 In this case, there is a presumption of fairness. The parties participated in extensive
17 negotiations and discovery. The settlement amount is substantial in total and a significant
18 percentage of what Plaintiff could obtain if prevailing at trial. The Court finds that the settlement,
19 payment of fees and costs, and distribution of funds is fair, reasonable, and adequate, and is in the
20 best interests of the Class Members. The entire settlement amount is available to the class, attorney
21 fees are the same as what was preliminarily approved, and costs are less. Accordingly, the motion
22 is GRANTED. This Final Order shall constitute a final judgment.

23 **IT IS SO ORDERED.**

24
25 DATED: 6/1/21


HON. PATRICK M. BRODERICK
SUPERIOR COURT OF CALIFORNIA

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PROOF OF SERVICE

(Code of Civil Procedure Sections 1013a, 2015.5)

STATE OF CALIFORNIA]
]ss.
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 515 S. Figueroa Street, Suite 1250, Los Angeles, California 90071.

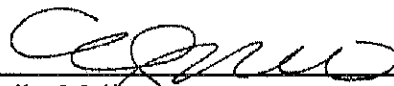
On May 17, 2021, I served the following document(s) described as: **[PROPOSED] ORDER GRANTING PLAINTIFF'S MOTION FOR FINAL APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT AND ENTERING JUDGMENT** on the interested parties in this action as follows:

Michael J. Nader
Ogletree, Deakins, Nash,
Smoak & Stewart, P.,C.
500 Capitol Mall, Suite 2500
Sacramento, California 95814
Attorney for Defendant Perdue Foods, LLC

Aaron H. Cole
Ogletree, Deakins, Nash,
Smoak & Stewart, P.,C.
400 South Hope Street, Suite 1200
Los Angeles, California 90071
Attorney for Defendant Perdue Foods, LLC

 X BY ELECTRONIC SERVICE: Based on a court order I caused the above-entitled document(s) to be served through the Odyssey eFileCA E-Filing System at the website www.california.tylerhost.net, addressed to all parties appearing on the electronic service list for the above-entitled case. The service transmission was reported as complete and a copy of the filing receipt/confirmation will be filed, deposited, or maintained with the original document(s) in this office.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on May 17, 2021, at Los Angeles, California.



Erika Mejia