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8 on behalf of herself and all others similarly situated and aggrieved

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

10 **FOR THE COUNTY OF LOS ANGELES**

11 VALERIE L. DIARD, an individual and on
12 behalf of all others similarly situated,

13 Plaintiff,

14 v.

15 MILK AND HONEY HOLDINGS, LLC et
16 al., a Texas limited liability company; and
DOES 1 through 100, inclusive,

17 Defendant.
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CASE NO.: 23STCV23686

[Assigned for all purposes to Hon. William F.
Highberger in Dept. 10]

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
ACTION AND REPRESENTATIVE
ACTION SETTLEMENT AND
CERTIFYING CLASS FOR
SETTLEMENT PURPOSES ONLY**

1 This Court, having considered the Motion of plaintiff Valerie L. Diard (“Plaintiff”) for
2 Preliminary Approval of the Class Action and Representative Action Settlement and Provisional
3 Class Certification for Settlement Purposes Only (“Motion for Preliminary Approval”), the
4 Declarations of Vedang J. Patel, David D. Bibiyan, Jodey Lawrence, Plaintiff, the Class and PAGA
5 Settlement Agreement (the “Settlement,” “Settlement Agreement” or “Agreement”), the proposed
6 Notice of Proposed Class Action Settlement and Date for Final Approval Hearing (“Class Notice”),
7 and other documents submitted in support of the Motion for Preliminary Approval, hereby
8 **ORDERS, ADJUDGES AND DECREES THAT:**

9 1. The definitions set out in the Settlement Agreement are incorporated by reference
10 into this Order; all terms defined therein shall have the same meaning in this Order.

11 2. The Court certifies the following settlement class (“Settlement Class,” “Settlement
12 Class Members” or “Class Members”) for the purpose of settlement only: all non-exempt, hourly-
13 paid individuals that worked for defendant Milk and Honey Holdings, LLC (“Defendant”) in the
14 State of California at any time during the period from September 29, 2019 through November 18,
15 2024 (the “Class Period”).

16 3. The Court preliminarily appoints the named plaintiff Valerie L. Diard as Class
17 Representative. The Court also preliminarily appoints David D. Bibiyan and Vedang J. Patel of
18 Bibiyan Law Group, P.C. as Class Counsel.

19 4. The Court preliminarily approves the proposed class settlement upon the terms and
20 conditions set forth in the Settlement Agreement. The Court finds, on a preliminary basis, that the
21 settlement appears to be within the range of reasonableness of settlement that could ultimately be
22 given final approval by the Court. It appears to the Court on a preliminary basis that the settlement
23 amount is fair, adequate, and reasonable as to all potential class members when balanced against the
24 probable outcome of further litigation relating to liability and damages issues. It further appears that
25 extensive and costly investigation and research has been conducted such that counsel for the parties
26 at this time are reasonably able to evaluate their respective positions. It further appears to the Court
27 that the settlement at this time will avoid substantial additional costs to all parties, as well as the
28 delay and risks that would be presented by the further prosecution of the Action. It further appears

1 that the settlement has been reached as the result of intensive, non-collusive and arms-length
2 negotiations utilizing an experienced third-party neutral.

3 5. The Court approves, as to form and content, the Class Notice that has been submitted
4 herewith.

5 6. The Court directs the mailing of the Class Notice by first-class regular U.S. mail to
6 the Class Members in accordance with the procedures set forth in the Settlement Agreement. The
7 Court finds that dissemination of the Class Notice set forth in the Settlement Agreement complies
8 with the requirements of law and appears to be the best notice practicable under the circumstances.

9 7. The Court hereby preliminarily approves the definition and disposition of the Gross
10 Settlement Amount of \$355,000 which is inclusive of: attorneys' fees of up to one third (1/3) of the
11 Gross Settlement Amount, which, if not escalated pursuant to the Settlement Agreement, amounts
12 to \$183,333.33, in addition to actual costs incurred of up to \$30,000.00; a service award of \$7,500.00
13 to Plaintiff Valerie L. Diard; costs of settlement administration of no more than \$7,995.00 and
14 Private Attorneys' General Act of 2004 ("PAGA") penalties in the amount of \$20,000.00, of which
15 \$15,000.00 (75%) will be paid to the Labor and Workforce Development Agency ("LWDA") and
16 \$5,000.00 (25%) to Aggrieved Employees.

17 8. "Aggrieved Employees" means all non-exempt, hourly-paid individuals that worked
18 for Milk and Honey Holdings, LLC in the State of California from September 29, 2022 through
19 November 18, 2024 (the "PAGA Period").

20 9. The Gross Settlement Amount expressly excludes Employer Taxes, which will be
21 paid separately and apart by Defendant on the wages portion of the Gross Settlement Amount.

22 10. Class Member's "Workweek" shall mean any week during which a Class Member
23 was employed by Defendant for at least one day in a non-exempt, hourly-paid position and recorded
24 active work time in Defendant's timekeeping system during the Class Period.

25 11. The settlement was negotiated based on Defendant's representation that there are no
26 more than 9,457 Workweeks from the beginning of the Class Period through the date of mediation,
27 August 20, 2024. If the total number of workweeks calculated for the Class Period is 10% higher
28 (10,403 workweeks), then the GSA is to be increased proportionally by the workweeks calculated

1 in excess of 10,403 workweeks multiplied by the per workweek value of the GSA. For example, if
2 the total workweeks during the Class Period is 10,497 workweeks (an increase of 11%), then the
3 GSA shall be increased by 11% (\$39,050.00). If this provision is triggered, Defendant has the option
4 to end the Class Period at an earlier date than described above (November 18, 2024) in order to limit
5 the covered workweeks to 10,403 (or less) in lieu of paying an increase to the GSA. For purposes
6 of this provision and for submission of the total workweeks to the Settlement Administrator, a
7 workweek is one that a Class Member recorded time worked in the Defendant's time and payroll
8 systems of record. Time paid, but not worked, such as vacation, medical leave, or any other type of
9 paid or unpaid time off, does not qualify. Defendant shall provide to the administrator an excel sheet
10 containing the recorded time worked for calculation by the Settlement Administrator. Parties agree
11 that the portion of the Gross Settlement Amount allocated to attorneys' fees will increase
12 proportionally such that the total amount of attorneys' fees remains one-third of the GSA after the
13 upward adjustment required by this provision is implemented.

14 12. The Court deems Phoenix Class Action Administration Solutions ("Settlement
15 Administrator" or "Phoenix" or "Administrator"), the Settlement Administrator, and payment of
16 administrative costs, not to exceed \$7,995.00 out of the Gross Settlement Amount for services to be
17 rendered by Phoenix on behalf of the class.

18 13. Not later than 7 days after the Court grants Preliminary Approval of the Settlement,
19 Defendant will simultaneously deliver the Class Data to the Administrator, in the form of a
20 Microsoft Excel spreadsheet. "Class Data" means Class Member identifying information in
21 Defendant's custody, possession, or control, including the Class Member's (1) name; (2) last known
22 address(es); (3) last known telephone number(s); (4) last known Social Security Number(s); and (5)
23 the dates of employment (i.e., hire dates, and, if applicable, re-hire date(s) and/or separation date(s)).

24 14. The Settlement Administrator shall perform an address search using the United States
25 Postal Service National Change of Address ("NCOA") database and update the addresses contained
26 on the Class List with the newly-found addresses, if any.

27 15. Using best efforts to perform as soon as possible, and in no event later than 14 days
28 after receiving the Class Data, the Administrator will send to all Class Members identified in the

1 Class Data, via first-class United States Postal Service (“USPS”) mail, the Class Notice with Spanish
2 translation.

3 16. “Response Deadline” means forty-five (45) days after the Administrator mails Notice
4 to Class Members and Aggrieved Employees and shall be the last date on which Class Members
5 may: (a) mail Requests for Exclusion from the Settlement, or (b) mail his or her Objection to the
6 Settlement. Class Members to whom Notice Packets are resent after having been returned
7 undeliverable to the Administrator shall have an additional 15 days beyond the Response Deadline
8 has expired.

9 17. Class Members who wish to exclude themselves from (opt-out of) the Class
10 Settlement must send the Administrator, by mail, a signed written Request for Exclusion not later
11 than 45 days after the Administrator mails the Class Notice (plus an additional 15 days for Class
12 Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member
13 or his/her representative, signed by the Class Member, that reasonably communicates the Class
14 Member’s election to be excluded from the Settlement and includes the Class Member’s name,
15 signature, the last four digits of their Social Security Number, address, and email address or
16 telephone number.

17 18. Any Settlement Class Member who does not opt out of the Settlement by submitting
18 a timely and valid Request for Exclusion will be bound by all terms of the Settlement, including
19 those pertaining to the Released Claims, as well as any Judgment that may be entered by the Court
20 if Final Approval of the Settlement is granted.

21 19. Each Class Member shall have 45 days after the Administrator mails the Class Notice
22 (plus an additional 15 days for Class Members whose Class Notice is re-mailed) to challenge the
23 number of Class Workweeks and PAGA Pay Periods (if any) allocated to the Class Member in the
24 Class Notice. The Class Member may challenge the allocation by communicating with the
25 Administrator via mail. The Administrator must encourage the challenging Class Member to submit
26 supporting documentation.

27 20. Participating Class Members may send written objections to the Administrator by
28 mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to

1 appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class
2 Member who elects to send a written objection to the Administrator must do so not later than 45
3 days after the Administrator's mailing of the Class Notice (plus an additional 15 days for Class
4 Members whose Class Notice was re-mailed).

5 21. If a Class Member submits both an objection and a Request for Exclusion, the
6 Request for Exclusion will control and the Objection will be overruled.

7 22. All papers filed in support of final approval, including supporting documents for
8 attorneys' fees and costs, shall be filed by _____.

9 23. A Final Fairness and Approval Hearing shall be held with the Court on
10 _____ at ____:____.m in Department 10 of the above-entitled Court to determine:
11 (1) whether the proposed settlement is fair, reasonable and adequate, and should be finally approved
12 by the Court; (2) the amount of attorneys' fees and costs to be awarded to Class Counsel; (3) the
13 amount of service award to the Class Representative; (4) the amount to be paid to the Settlement
14 Administrator; and (5) the amount to be apportioned to PAGA and/or paid to the LWDA and
15 Aggrieved Employees.

16 24. For any Class Member or Aggrieved Employee whose check is uncashed after 180
17 days of issuance, it shall be cancelled and funds represented by such checks to the California
18 Controller's Unclaimed Property Fund, in the name of the Class Member, thereby leaving no
19 "unpaid residue" subject to the requirements of California Code of Civil Procedure section 384,
20 subd. (b).

21 **IT IS SO ORDERED.**

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23 Dated: _____

Judge of the Superior Court

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