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DIVERSITY LAW GROUP, P.C.
Larry W. Lee (State Bar No. 228175)
lwlee@diversitylaw.com
Simon L. Yang (State Bar No. 260286)
sly@diversitylaw.com
515 South Figueroa Street, Suite 1250
Los Angeles, California 90071
Telephone: (213) 488-6555
Facsimile: (213) 488-6554

POLARIS LAW GROUP
William L. Marder (State Bar No. 170131)
bill@polarislawgroup.com
501 San Benito Street, Suite 200
Hollister, California 95023
Telephone: (831) 531-4214
Facsimile (831) 634-0333

Attorneys for Plaintiff and the Class

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN JOAQUIN

STEVE MILLER, as a private attorney general
and as an individual and on behalf of all others
similarly situated,

Plaintiffs,

vs.

BERRY GLOBAL, INC., a Delaware corporation;
and DOES 1 through 50, inclusive,

Defendants.

Case No. STK-CV-UOE-2020-0006547

[Assigned for all purposes to Department 10C,
Hon. Jayne Lee]

**[PROPOSED] ORDER GRANTING
MOTION FOR FINAL APPROVAL OF
CLASS ACTION SETTLEMENT AND
FINAL JUDGMENT**

Date: October 25, 2022
Time: 9:00 a.m.
Department: 10C

Complaint Filed: August 10, 2020

BY FAX

1 The Motion for Final Approval of Class Action Settlement filed by Plaintiff, Steve Miller, came
2 before this Court on October 25, 2022.

3 The above captioned Action is a class and representative action lawsuit brought by Plaintiff
4 against Defendant, Berry Global, Inc.

5 **WHEREAS**, on June 15, 2022, this Court granted preliminary approval of the Stipulation re:
6 Settlement of Class Action ("Settlement Agreement"), attached as Exhibit 1 to the Declaration of Simon
7 L. Yang filed on April 20, 2022.

8 **WHEREAS**, Plaintiff has applied to the Court for an order granting final approval of the
9 settlement.

10 **WHEREAS**, the Settlement Agreement sets forth the terms and conditions for the proposed
11 settlement and for entry of an order of final approval and entry of final judgment thereon. The Court
12 having read and considered Plaintiff's Motion for Final Approval of Class Action Settlement, and the
13 supporting documents and exhibits annexed thereto including the Declarations of Larry W. Lee, William
14 L. Marder, Plaintiff Steven Miller, and the Settlement Administrator, now finds:

15 **NOW THEREFORE, GOOD CAUSE APPEARING, IT IS HEREBY ORDERED:**

16 1. The Court has personal jurisdiction over all members of the Class and that the Court has
17 subject matter jurisdiction to approve the settlement.

18 2. This Order incorporates by reference the definitions in the Settlement Agreement and all
19 capitalized terms defined therein shall have the same meaning in this Order as set forth in the Settlement
20 Agreement.

21 3. The terms of the Settlement are fair, just, reasonable, and adequate, consistent and in
22 compliance with the California Code of Civil Procedure, California and United States Constitutions
23 (including the due process clauses), California Rules of Court, and any other applicable law, and in the
24 best interest of each of the Parties and the Class Members and is hereby finally approved in all respects.

25 4. The Parties are hereby directed to perform the terms of the settlement as described in the
26 Settlement Agreement according to its terms and provisions.

27 5. There is one (1) valid Request for Exclusions.

28 6. It is ordered that the Class is certified for settlement purposes only. The Court finds that
an ascertainable class exists and a well-defined community of interest exists in the questions of law and

1 fact involved because in the context of the settlement: (i) there are questions of law and fact common to
2 the Class Members which, as to the settlement and all related matters, predominate over any individual
3 questions; (ii) the claims of Plaintiff are typical of the claims of the Class Members; and (iii) in
4 negotiating, entering into, and implementing the settlement, Plaintiff and Plaintiff's attorneys have fairly
5 and adequately represented and protected the interest of the Class Members.

6 7. The Court finds that the Class Notice and notice methodology implemented pursuant to
7 this settlement (i) constituted the best practicable notice; (ii) constituted notice that was reasonably
8 calculated, under the circumstances, to apprise members of the Class of the pendency of the Action,
9 their right to object to or exclude themselves from the proposed settlement and their right to appear at
10 the Final Approval Hearing; (iii) were reasonable and constituted due, adequate, and sufficient notice to
11 all persons entitled to receive notice; and (iv) met all applicable requirements of the California Code of
12 Civil Procedure, California and United States Constitution (including the Due Process Clause),
13 California Rules of Court, and any other applicable law.

14 8. The Class is hereby made final. The Class is defined as all current or former non-exempt
15 employees of Defendant, Berry Global, Inc., in the State of California who were paid overtime wages or
16 shift differential wages at any time during the Class Period, except for *Gonsales v. Berry Global Films,*
17 *LLC* settlement class members who exclusively received such payments before December 21, 2020.

18 9. The Class Period is deemed to be the period of time from April 9, 2019, through April 1,
19 2022 (the "Class Period").

20 10. The Settlement Agreement is not an admission by Defendant, nor is this Final Order a
21 finding of the validity of any allegations or of any wrongdoing by Defendant. Neither this Final Order,
22 the settlement, nor any document referred to herein, nor any action taken to carry out the settlement,
23 shall be construed or deemed an admission of liability, culpability, negligence, or wrongdoing on the
24 part of Defendant.

25 11. The Court orders that pursuant to the Settlement Agreement, and upon the funding of the
26 settlement by Defendant, (i) Plaintiff and all Class Members who have not been timely and properly
27 excluded from the Class, and any person acting on their behalf, are deemed to have waived, released,
28 and discharged, and are permanently barred from prosecuting the Released Class Claims against
Defendant and the Released Parties as fully set forth in the Settlement Agreement and (ii) Plaintiff and

1 all Class Members, including those who have timely and duly requested exclusion are deemed to have
2 waived, released, and discharged, and are permanently barred from prosecuting the Settled PAGA
3 Claims against Defendant and the Released Parties as fully set forth in the Settlement Agreement.

4 12. The Settlement Agreement provides that the Gross Settlement Amount is \$1,013,652.00.
5 The Net Settlement Amount shall be determined according to the terms of the settlement.

6 13. The Court orders the calculations and the payments to be made and administered in
7 accordance with the terms of the settlement.

8 14. The Court hereby finds that Plaintiff and Class Counsel adequately represented the Class
9 for purposes of entering into and implementing the settlement. The Court hereby confirms Diversity
10 Law Group, P.C. and Polaris Law Group as Class Counsel in the Action.

11 15. The Court hereby finds the unopposed application of Class Counsel for a costs and
12 attorneys' fees award provided for under the proposed settlement to be fair and reasonable in light of all
13 the circumstances and is hereby granted. 35% of the Gross Settlement Amount of \$1,013,652.00 being
14 \$354,788.20 shall be paid for attorney fees and \$12,777.71 shall be paid for litigation costs in
15 accordance with the terms of the settlement. In addition, the Court finds that the requested Class Counsel
16 Fees and Litigation Expenses Payment is reasonable and commensurate with market rates in San
17 Joaquin County and approves the requested fee distribution. No other costs or fees arising out of or
18 related to the institution, prosecution, or resolution of this matter shall be awarded, either against
19 Defendant or the Released Parties, or from the award to the Class.

20 16. The unopposed application of Class Counsel for a Class Representative Service Award
21 Payment is hereby granted. Of the Gross Settlement Amount, a Service Award Payment of \$10,000.00
22 shall be allocated to named Plaintiff, Steven Miller, in accordance with the terms of the settlement.

23 17. The Court hereby approves a PAGA Payment in the amount of \$40,000.00, of which
24 75%, or \$30,000.00 shall be remitted to the California Labor and Workforce Development Agency for
25 the resolution of all Class Members' claims under the PAGA, California Labor Code § 2698, *et seq.*

26 18. The unopposed application of Class Counsel for settlement administration expenses to be
27 paid to the Settlement Administrator is hereby granted. Of the Gross Settlement Amount, \$5,975.00
28 shall be paid to the Settlement Administrator in accordance with the terms of the settlement.

19. Defendant shall have no further liability for costs, expenses, interest, attorneys' fees, or

1 for any other charge, expense, or liability, except as provided for in the Settlement Agreement.

2 Defendant is hereby relieved of any obligation to retain electronically stored information or other data,
3 documents or information as a result of the filing or pursuit of the instant matter but is not relieved of
4 any obligation arising independently of this matter to retain electronically stored information or other
5 data, documents or information.

6 20. The Court hereby grants and authorizes the Parties, without further approval from the
7 Court, to agree to and to adopt such amendments, modifications and expansions of this settlement and
8 all exhibits attached hereto as (i) are consistent with the Final Judgment; and (ii) do not limit the rights
9 of members of the Class under the settlement.

10 21. Final Judgment is hereby entered pursuant to the terms of the Settlement Agreement.

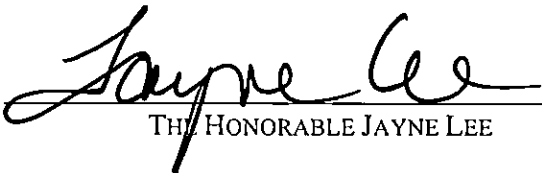
11 22. Pursuant to California Rule of Court Rule 3.769(h) and C.C.P. § 664.6, the Court shall
12 retain jurisdiction of this Action, the Parties, and the Class, as well as the administration and
13 enforcement of the terms of the settlement of the Action to enforce the terms of the judgment. Without
14 affecting the finality of the Final Judgment, the Court shall retain continuing jurisdiction over the
15 Action, the Parties, and the Class, as well as the administration and enforcement of the settlement. Any
16 disputes or controversies arising with respect to the interpretation, consummation, enforcement, or
17 implementation of the settlement not resolved by the Settlement Administrator shall be presented by
18 motion to the Court; provided however, that nothing in this Part shall restrict the ability of the Parties to
19 exercise their rights to terminate the settlement pursuant to the terms of the Settlement Agreement.

20 23. This Final Order shall constitute a Final Judgment.

21 24. The Court hereby dismisses the Action with prejudice, without fees or costs to any party
22 except as provided by the Settlement Agreement.

23 **IT IS SO ORDERED AND ADJUDGED.**

24 DATED: 10/25, 2022


THE HONORABLE JAYNE LEE

Jayne C. Lee