

Kane Moon (SBN 249834)  
Allen Feghali (SBN 301080)  
Lannie Pham (SBN 342139)  
**MOON LAW GROUP, PC**  
1055 West Seventh Street, Suite 1880  
Los Angeles, California 90017  
Telephone: (213) 232-3128  
Facsimile: (213) 232-3125  
Email: kmoon@moonlawgroup.com  
Email: afeghali@moonlawgroup.com  
Email: lpham@moonlawgroup.com

*Attorneys for Plaintiff, Francisco Javier Mendoza*

**FILED**  
SUPERIOR COURT of CALIFORNIA  
COUNTY of SANTA BARBARA  
**02/27/2024**  
Darrel E. Parker, Executive Officer  
BY Baksh, Narzralli Deputy Clerk

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SANTA BARBARA**

FRANCISCO JAVIER MENDOZA,  
individually, and on behalf of all others similarly  
situated,

*Plaintiff,*

vs.

DUNCAN FAMILY FARMS, LLC, a limited  
liability company; and DOES 1 through 10,  
inclusive,

*Defendants.*

Case No.: 22CV00779

[Honorable Donna D. Geck,  
Department 4]

**~~AMENDED~~ PROPOSED] ORDER  
GRANTING PLAINTIFF'S MOTION  
FOR PRELIMINARY APPROVAL OF  
CLASS AND PAGA ACTION  
SETTLEMENT**

*[Filed concurrently with Declaration of Kane  
Moon]*

Complaint Filed: February 25, 2022  
Trial Date: Not Set

PRELIMINARY APPROVAL HEARING  
Date: ~~February 9, 2024~~ February 23, 2024  
Time: 10:00 a.m.  
Dept: 4

1           The Court has before it the unopposed Motion for Preliminary Approval of Class and  
2   PAGA Action Settlement (“Motion”) of Plaintiff Francisco Javier Mendoza (“Plaintiff”).  
3   Having reviewed the Notice of Motion, Motion, the Declaration of Kane Moon, the  
4   Declaration of Plaintiff Francisco Javier Mendoza, and the Joint Stipulation of Class Action  
5   Settlement (“Settlement”), and good cause appearing, **THE COURT HEREBY ORDERS AS**  
6   **FOLLOWS:**

7           1.       The Settlement, which is attached as Exhibit 1 to the Declaration of Kane Moon  
8   in Support of Plaintiff’s Motion for Preliminary Approval of Class and PAGA Action  
9   Settlement, appears to be fair, adequate and reasonable, and therefore, meets the requirements  
10   for preliminary approval. In particular, the Settlement appears to be fair and reasonable in  
11   light of the good faith, non-collusive negotiations between Plaintiff and Defendant Duncan  
12   Family Farms, LLC (together, the “Parties”), which resulted in the Settlement; the significant  
13   informal discovery, investigation, and analysis conducted by the Parties, which enabled them  
14   to intelligently evaluate, litigate and mediate the alleged claims; the probable outcome of  
15   further litigation relating to class certification, liability and damages issues; the substantial  
16   costs, delay and risks of further litigation relating to the same; and the risk of potential appeal.

17          2.       The Settlement provides that Defendant will pay a Gross Settlement Amount of  
18   \$300,000.00, which will be used to pay the Settlement Class Payments to Settlement Class  
19   Members; PAGA Allocation in the amount of \$40,000.00, with 75% (\$30,000.00) paid to the  
20   Labor and Workforce Development Agency (“LWDA”), and 25% (\$10,000.00) allocated to  
21   the PAGA Settlement Payment; Class Counsel’s attorney’s fees, which is not to exceed 33  
22   1/3% of the Gross Settlement Amount, or \$100,000.00; Class Counsel’s reimbursement of  
23   litigation costs and expenses, which is not to exceed \$18,000.00; the Service Payment, which  
24   is not to exceed \$7,500.00; and the Settlement Administration Costs, which is not to exceed  
25   \$9,000.00. These terms appear to contain the requisite criteria for preliminary approval,  
26   pursuant to *California Code of Civil Procedure* section 382 and other applicable law. Further,  
27   these terms appear to fall within the range of reasonableness of a settlement which could  
28   ultimately be granted final approval by this Court.

1           3.       The Settlement Class, which includes all current and former non-exempt  
2 employees of Defendant who worked in California during the period from February 25, 2018  
3 through September 25, 2023, and who do not submit timely exclusion requests to the Settlement  
4 Administrator, is provisionally certified for settlement purposes only. The Settlement Class is  
5 provisionally certified because it appears to meet the following requirements for certification  
6 under *California Code of Civil Procedure* section 382: (1) the Settlement Class is so numerous  
7 that joinder is impractical; (2) there are questions of law and fact that are common, or of  
8 general interest, to all Settlement Class Members which predominate over individual issues;  
9 (3) Plaintiff's claims are typical of the claims of the Participating Class Members; (4) Plaintiff  
10 and Class Counsel will fairly and adequately protect the interests of the Settlement Class  
11 Members; and (5) a class action is superior to other available methods for the fair and efficient  
12 adjudication of the controversy. The Court notes that Class Members who do not request  
13 exclusion from the Settlement may object thereto and may raise their objections at the Final  
14 Fairness Hearing on the Settlement.

15           4.       The PAGA Employees, which include all current and former non-exempt  
16 employees of Defendant who worked in California during the period from February 19, 2021  
17 through September 25, 2023, are provisionally approved for settlement purposes only.

18           5.       The Class Representative, Settlement Class Members, and PAGA Employees,  
19 regardless of whether he or she is a Settlement Class Member, will release claims in accordance  
20 with the terms of the Settlement upon final approval by the Court of this Settlement and  
21 Defendant's payment of all sums due pursuant to this Settlement, and except as to such rights or  
22 claims as may be created by this Settlement. With the exception of the Class Representative,  
23 who will be subject to a broader release in accordance with the terms of the Settlement, the  
24 Settlement Class Members and PAGA Employees will be subject to the following release terms:

- 25           a.       **Identity of Released Parties.** The released parties are Defendant and all related  
26 companies, subsidiaries, owners, shareholders, members, agents (including  
27 without limitation, any investment bankers, accountants, insurers, reinsurers,  
28 attorneys and any past, present or future officers, directors, and employees)

predecessors, successors, and assigns (collectively, “Releasees”) (Settlement, ¶ 37(a)).

- b. **Claims Released by Settlement Class Members.** Each and every Class Member, on behalf of himself or herself and his or her heirs and assigns, unless he or she has submitted a timely and valid Request for Exclusion (which will not effectuate an opt-out from the release of Released PAGA Claims), hereby releases Releasees from the following claims for the entire Class Period: 1) any and all claims stated in the Operative Complaint, or that could have been stated based on the facts alleged in the Action, including but not limited to all state wage and hour claims (including all claims under the California Labor Code) for unpaid wages, minimum wage, sick pay, overtime, off-the-clock work, meal periods, rest periods, wage statement violates, interest, penalties, and attorneys’ fees, waiting time penalties, withholding from wages and the related provisions of the Labor Code including but limited to Labor Code §§ 201-204, 210, 216, 218.5, 218.6, 226, 226.3, 226.7, 245-249, 510, 512, 512.5, 558, 1174, 1194, 1194.2, 1197, 1197.1, 1198, derivative claims under California Business & Professions Code §§ 17200 et seq., and all claims under the governing Wage Order (“Released Claims”); 2) as to any Class Member who cashes their Settlement Payment, the Settlement Administrator shall include language on the Settlement Payments that informs the Class Members that the signing and negotiation of that check shall serve as the Class Member’s consent to join the Action for purposes of releasing all claims under the Fair Labor Standards Act that are alleged in the Action or related to the claims stated or that could have been stated in the Action, implicitly or explicitly (Settlement, ¶ 37(c)).
- c. **“Released PAGA Claims”** means all claims for penalties and any other available relief pursuant to PAGA, to the extent asserted in Plaintiff’s administrative exhaustion letter submitted to the LWDA on February 19, 2022 in this Action, arising during the PAGA Period. (Settlement, ¶ 15).

1           d. **Claims Released by the Class, Including PAGA Employees.** All Class Members,  
2           including all PAGA Employees, release the Released PAGA Claims, regardless of  
3           whether they have requested exclusion from the Settlement as to the Released Claims  
4           (Settlement, ¶ 37(d)).

5           e. **Effective Date.** The “Effective Date” shall be the date all of the following have  
6           occurred: (i) final approval of the settlement is granted by the Court through a  
7           signed Order; and (ii) Judgment approving the settlement becomes Final. “Final”  
8           shall mean the latest of: (i) if there is an appeal of the Court’s Judgment, the date  
9           the Judgment is affirmed on appeal, the date of dismissal of such appeal, or the  
10          expiration of the time to file a petition for writ of certiorari to the United States  
11          Supreme Court, or, (ii) if a petition for writ of Certiorari is filed, the date of denial  
12          of the petition for writ of certiorari, or the date the Judgment is affirmed pursuant to  
13          such petition; or (iii) if no objection is made, or if an objection is made but  
14          withdrawn prior to the date the Court grants final approval, the date the final  
15          approval order is signed by the Court. (Settlement, ¶ 26(b)).

16          6.       For settlement purposes only, the Class Representative appointed for this matter  
17          is Plaintiff Francisco Javier Mendoza. The Service Payment to Plaintiff for service as Class  
18          Representative, which is not to exceed \$7,500.00, is preliminarily approved.

19          7.       For settlement purposes only, Class Counsel appointed for this matter is Moon  
20          Law Group, PC. The Class Counsel attorney’s fees, which is not to exceed \$100,000.00; and  
21          Class Counsel litigation costs and expenses, which is not to exceed \$18,000.00, are  
22          preliminarily approved.

23          8.       For settlement purposes only, the Settlement Administrator appointed for this  
24          matter is ILYM Group, Inc. The Settlement Administration Costs, which is not to exceed  
25          \$9,000.00, is preliminarily approved.

26          9.       For settlement purposes only, the Notice to be sent to Class Members, as to  
27          form and content, is adequate. Further, on a preliminary basis, the plan for distribution of the  
28          Notice to Class Members satisfies Due Process, provides the best notice practicable under the

circumstances, and shall constitute due and sufficient notice to all persons entitled thereto. The Notice is attached to the Settlement as Exhibit A.

10. A Final Fairness Hearing on the question of whether the Settlement terms, including Class Counsel attorney's fees, Class Counsel litigation costs and expenses, and Service Payment, should be finally approved as fair, adequate and reasonable as to the Settlement Class Members is hereby set in accordance with the following Implementation Schedule:

|   |   |
|---|---|
| Defendant to provide class database to the Settlement Administrator | Within fifteen (15) calendar days from the date of preliminary approval by the Court  |
| Settlement Administrator to mail the Notices by First Class Mail    | Within thirty (30) calendar days from the date of preliminary approval by the Court   |
| Response Deadline   | Within forty-five (45) days after the Settlement Administrator initially mails the Notice to Class Members and PAGA Employees |
| Deadline to file Motion for Final Approval                          | No later than sixteen (16) court days prior to the Final Fairness Hearing   |
| Final Fairness Hearing  | July 19, 2024 at 10:00 a.m.<br>in Department 4 of the Santa Barbara Superior Court  |

11. If any of the dates in the above schedule fall on a weekend, or bank or court holiday, the time to act shall be extended to the next business day.

12. Pending further order of this Court, all proceedings in this lawsuit, except those contemplated herein and in the Settlement, are stayed.

13. To facilitate the administration of the Settlement pending final approval, the Court hereby enjoins the Plaintiff and all Settlement Class Members from filing or prosecuting any claims, suits or administrative proceedings, including filing claims with the Division of Labor Standards Enforcement of the California Department of Industrial Relations, regarding claims released by the Settlement, unless and until such Class Members have filed valid

1 Requests for Exclusion with the Administrator and the time for filing claims with the  
2 Administrator has lapsed.

3 14. The Settlement is preliminarily approved but is not an admission by the  
4 Defendant of the validity of any claims in the instant Class and PAGA action, or of any  
5 wrongdoing or violation of law by Defendant.

6 15. Neither the Settlement nor any related document shall be offered or received in  
7 evidence in any civil, criminal, or administrative action or proceeding other than such  
8 proceedings as may be necessary to consummate or enforce the Agreement.

9 16. The obligations set forth in the Settlement are deemed part of this Order. The  
10 Parties are to carry out the Settlement in accordance with its terms.

11 **IT IS SO ORDERED.**

12  
13 DATE: 02/27/2024



14 Honorable Donna D. Geck  
15 Judge of the Santa Barbara County Superior Court  
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1 **PROOF OF SERVICE**

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

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

9 **[AMENDED PROPOSED] ORDER GRANTING PLAINTIFF'S MOTION FOR**  
10 **PRELIMINARY APPROVAL OF CLASS AND PAGA ACTION SETTLEMENT**

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

13 Patrick S. Moody  
14 **BARSAMIAN & MOODY**  
15 1141 W Shaw Ave #104  
16 Fresno, CA 93711  
17 pmood@theemployerslawfirm.com  
18 choulihan@theemployerslawfirm.com  
19 laborlaw@theemployerslawfirm.com

20 *Counsel for Defendant Duncan Family Farms, LLC*

21 [✓] **BY U.S. MAIL:** I deposited such envelope in the mail at Los Angeles, California. The  
22 envelope was mailed with postage thereon fully prepaid. I am "readily familiar" with  
23 the firm's practice of collection and processing correspondence for mailing. Under that  
24 practice it would be deposited with U.S. postal service on that same day with postage  
25 thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am  
26 aware that on motion of the party served, service is presumed invalid if postal  
27 cancellation date or postage meter date is more than one day after date of deposit for  
28 mailing in affidavit.

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

31 Executed on December 28, 2023, at Los Angeles, California.

32 Jessica Coronado  
33 Type or Print Name

34   
35 Signature