

**FILED**

SUPERIOR COURT of CALIFORNIA  
COUNTY of SANTA BARBARA

**07/23/2024**

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BY Chavez, Terri

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**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

CLASS AND REPRESENTATIVE ACTION

[Honorable Donna D. Geck,  
Department 4]

**~~PROPOSED~~ ORDER GRANTING  
FINAL APPROVAL OF CLASS AND  
PAGA ACTION SETTLEMENT**

*[Filed with Plaintiff's Notice of Motion and  
Memorandum of Points and Authorities,  
Declarations of Kane Moon, Plaintiff, and  
Cassandra Polites, and [Proposed] Judgment]*

FINAL APPROVAL HEARING:

Date: July 19, 2024

Time: 10:00 a.m.

Dept.: 4

Complaint Filed: February 25, 2022

Trial Date: Not Set

1 **~~PROPOSED~~ FINAL APPROVAL ORDER**

2 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

3 On February 27, 2024, the Court entered an Order which granted Plaintiff's Motion for  
4 Preliminary Approval of Class and PAGA Action Settlement, granted conditional class certification,  
5 approved the format of the Class Notice, and set a Final Approval Hearing (the "Preliminary  
6 Approval Order"), thereby preliminarily approving a settlement of the above-entitled action (the  
7 "Action") that was reached between Plaintiff Francisco Javier Mendoza ("Plaintiff") and Defendant  
8 Duncan Family Farms, LLC ("Defendant") (together with Plaintiff, the "Parties"), in accordance  
9 with the Parties' Joint Stipulation of Class Action Settlement (the "Settlement"). The Settlement was  
10 attached as **Exhibit 1** to the Declaration of Kane Moon in Support of Plaintiff's Motion for  
11 Preliminary Approval of Class and PAGA Action Settlement that was filed on November 14, 2023.

12 The Court now has before it Plaintiff's Motion for Final Approval of Class and PAGA Action  
13 Settlement, including a motion for payment of Class Counsel attorneys' fees and costs, the Class  
14 Representative Service Payment, Settlement Administration Costs, and PAGA Settlement Payment,  
15 and whether the Settlement should be finally approved as fair, reasonable, and adequate as to Class  
16 Members (collectively "Motion for Final Approval"), as well as a [Proposed] Final Approval Order.

17 Due and adequate notice having been given to Class Members, and the Court having reviewed  
18 the Settlement and duly considered Plaintiff's Motion for Final Approval, the supporting declarations  
19 and exhibits thereto, all other papers filed and proceedings had hereto, the record in this Action, and  
20 any oral argument, and good cause appearing,

21 **THE COURT HEREBY ORDERS AND DECREES AS FOLLOWS:**

22 1. The Court, for purposes of this Final Approval Order, refers to all terms and  
23 definitions as set forth in the Settlement.

24 2. Plaintiff's Motion for Final Approval came before Department 4 of this Court, the  
25 Honorable Donna D. Geck presiding, on July 19, 2024.

26 3. The Court finds that the Settlement was made and entered into in good faith, the terms  
27 of which are fair, reasonable, and adequate; was reached following meaningful discovery and  
28 investigation conducted by Plaintiff and his counsel of record ("Class Counsel"); is the result of

1 serious, informed, adversarial, and arms-length negotiations between the Parties; and therefore,  
2 meets the requirements for final approval. In so finding, the Court has considered all the evidence  
3 presented, including evidence regarding the strength of Plaintiff's claims; the risk, expense, and  
4 complexity of the claims presented; the likely duration of further litigation; the settlement amount  
5 offered; the extent of investigation and discovery completed; and the experience and views of Class  
6 Counsel. The Court has further considered the absence of any objections or Requests for Exclusion  
7 from the Settlement. Accordingly, the Court hereby **GRANTS** Plaintiff's Motion for Final  
8 Approval and **ORDERS** Judgment to be entered in accordance with the terms herein.

9       4.       The Court certifies, for settlement purposes only, the following Class (the "Settlement  
10 Class"): All current and former non-exempt employees of Defendant who worked in California  
11 during the period from February 25, 2018 through September 25, 2023 ("Class Period"). Excluded  
12 from the Settlement Class are all Class Members who submit a valid and timely Request for  
13 Exclusion from the Settlement.

14       5.       Notwithstanding the submission of a timely Request for Exclusion, Class Members  
15 are still bound by the settlement and release of the Released PAGA Claims or remedies under the  
16 Judgment pursuant to *Arias v. Superior Court* (2009) 46 Cal. 4th 969, as requests to be excluded  
17 from the Settlement do not apply to the Released PAGA Claims.

18       6.       The deadline for Class Members to submit a Request for Exclusion or to submit  
19 written objections to the Settlement was May 13, 2024.

20       7.       No Request for Exclusions were received. Accordingly, no individuals are excluded  
21 from the Settlement Class and 179 Class Members remain in the Settlement Class.

22       8.       All Class Members had an opportunity to object to the Settlement. No written  
23 objections were received.

24       9.       The Notice of Proposed Class Action Settlement (the "Class Notice"), which was  
25 attached to the Settlement as **Exhibit A** and provided to the Class pursuant to the plan for distribution  
26 described under the Settlement, conformed with the requirements of rules 3.766 and 3.769 of the  
27 California Rules of Court, and constituted the best notice practicable under the circumstances, by  
28 providing individual and adequate notice of the proceedings and of the matters set forth therein to

1 Class Members. The Class Notice fully satisfied the requirements of due process and provided the  
2 Class Members with adequate instructions and a variety of means to obtain additional information.

3 10. A full opportunity has been afforded to Class Members to participate in the Final  
4 Approval Hearing, and all Class Members and other persons wishing to be heard have been heard  
5 and/or had an opportunity to be heard. Class Members have had a full and fair opportunity to exclude  
6 themselves from, or object to, the Settlement. Accordingly, the Court determines that all Class  
7 Members who did not submit a timely Request for Exclusion (“Settlement Class Members”) are  
8 bound by this Final Approval Order and the concurrently filed Judgment.

9 11. The Class Representative, Settlement Class Members, and PAGA Employees,  
10 regardless of whether he or she is a Settlement Class Member, will release claims in accordance  
11 with the terms of the Settlement upon final approval by the Court of this Settlement and  
12 Defendant’s payment of all sums due pursuant to this Settlement, and except as to such rights or  
13 claims as may be created by this Settlement. With the exception of the Class Representative, who  
14 will be subject to a broader release in accordance with the terms of the Settlement, the Settlement  
15 Class Members and PAGA Employees will be subject to the following release terms:

16 a. **Identity of Released Parties.** The released parties are Defendant and all related  
17 companies, subsidiaries, owners, shareholders, members, agents (including  
18 without limitation, any investment bankers, accountants, insurers, reinsurers,  
19 attorneys and any past, present or future officers, directors, and employees)  
20 predecessors, successors, and assigns (collectively, “Releasees”) (Settlement, ¶  
21 37(a)).

22 b. **Claims Released by Settlement Class Members.** Each and every Class  
23 Member, on behalf of himself or herself and his or her heirs and assigns, unless  
24 he or she has submitted a timely and valid Request for Exclusion (which will not  
25 effectuate an opt-out from the release of Released PAGA Claims), hereby  
26 releases Releasees from the following claims for the entire Class Period: 1) any  
27 and all claims stated in the Operative Complaint, or that could have been stated  
28 based on the facts alleged in the Action, including but not limited to all state wage

1 and hour claims (including all claims under the California Labor Code) for unpaid  
2 wages, minimum wage, sick pay, overtime, off-the-clock work, meal periods, rest  
3 periods, wage statement violates, interest, penalties, and attorneys' fees, waiting  
4 time penalties, withholding from wages and the related provisions of the Labor  
5 Code including but limited to Labor Code §§ 201-204, 210, 216, 218.5, 218.6,  
6 226, 226.3, 226.7, 245-249, 510, 512, 512.5, 558, 1174, 1194, 1194.2, 1197,  
7 1197.1, 1198, derivative claims under California Business & Professions Code  
8 §§ 17200 et seq., and all claims under the governing Wage Order ("Released  
9 Claims"); 2) as to any Class Member who cashes their Settlement Payment, the  
10 Settlement Administrator shall include language on the Settlement Payments that  
11 informs the Class Members that the signing and negotiation of that check shall  
12 serve as the Class Member's consent to join the Action for purposes of releasing  
13 all claims under the Fair Labor Standards Act that are alleged in the Action or  
14 related to the claims stated or that could have been stated in the Action, implicitly  
15 or explicitly (Settlement, ¶ 37(c)).

- 16 c. **"Released PAGA Claims"** means all claims for penalties and any other available  
17 relief pursuant to PAGA, to the extent asserted in Plaintiff's administrative  
18 exhaustion letter submitted to the LWDA on February 19, 2022 in this Action,  
19 arising during the PAGA Period. (Settlement, ¶ 15).
- 20 d. **Claims Released by the Class, Including PAGA Employees.** All Class  
21 Members, including all PAGA Employees, release the Released PAGA Claims,  
22 regardless of whether they have requested exclusion from the Settlement as to the  
23 Released Claims (Settlement, ¶ 37(d)).
- 24 e. **Effective Date.** The "Effective Date" shall be the date all of the following have  
25 occurred: (i) final approval of the settlement is granted by the Court through a  
26 signed Order; and (ii) Judgment approving the settlement becomes Final. "Final"  
27 shall mean the latest of: (i) if there is an appeal of the Court's Judgment, the date  
28 the Judgment is affirmed on appeal, the date of dismissal of such appeal, or the

1 expiration of the time to file a petition for writ of certiorari to the United States  
2 Supreme Court, or, (ii) if a petition for writ of Certiorari is filed, the date of denial  
3 of the petition for writ of certiorari, or the date the Judgment is affirmed pursuant  
4 to such petition; or (iii) if no objection is made, or if an objection is made but  
5 withdrawn prior to the date the Court grants final approval, the date the final  
6 approval order is signed by the Court. (Settlement, ¶ 26(b))

7 12. The Parties shall bear their own respective attorneys' fees and costs, except as  
8 otherwise provided for in the Settlement and approved by the Court.

9 13. The Court finds that the Gross Settlement Amount ("GSA"), the Net Settlement  
10 Amount, and the methodology used to calculate Individual Settlement Payments and Individual  
11 PAGA Settlement Payments to Settlement Class Members and PAGA Employees, respectively, are  
12 fair and reasonable. Thus, Court authorizes the Settlement Administrator to calculate and pay  
13 individual settlement shares in accordance with the terms of the Settlement.

14 14. Defendant is ordered to fund the GSA (\$300,000.00) by depositing the GSA and any  
15 employer payroll taxes on or before 20 days after the Effective Date.

16 15. Within 14 calendar days after Defendant funds the GSA, the Settlement Administrator  
17 shall disburse, in the amounts approved by the Court as provided below, the following payments: (1)  
18 Individual Settlement Payments; (2) Individual PAGA Settlement Payments; (3) PAGA Penalty  
19 Payment to the LWDA; (4) Settlement Administration Costs; (5) Class Counsel's attorneys' fees; (6)  
20 Class Counsel's litigation costs and expenses, and (7) the Class Representative Service Payment.

21 16. A total amount of \$40,000.00 shall be allocated as the "PAGA Settlement Payment,"  
22 payable from the GSA, for resolution of the Released PAGA Claims and distributed as follows: 75%  
23 (\$30,000.00) to the California Labor and Workforce Development Agency (the "LWDA") and 25%  
24 (\$10,000.00) to PAGA Employees. The LWDA and PAGA Employees' claims for the Released  
25 PAGA Claims are hereby extinguished.

26 17. The Court confirms the appointment of Plaintiff as the Class Representative, for  
27 settlement purposes only. In addition to any recovery that Plaintiff is eligible to receive as a  
28 Settlement Class Member and PAGA Employee, the Court approves and orders a service payment

1 to Plaintiff in the amount of **\$7,500.00** (the “Service Payment”), payable from the GSA, for his role  
2 and service as the Class Representative, for the risks and work attendant to that role, and for his  
3 general release of claims and waiver of section 1542 rights.

4 18. The Court confirms the appointment of Moon Law Group, PC, as Class Counsel, for  
5 settlement purposes only, as they are experienced in wage and hour class action litigation, have no  
6 apparent conflicts of interest with Plaintiff, other Class Members, or the Settlement Administrator,  
7 and have adequately represented Class interests. The Court approves and orders the payments to  
8 Class Counsel, payable from the GSA, of **\$100,000.00** for reasonable attorneys’ fees, and of  
9 **\$17,451.76**, for reimbursement of out-of-pocket costs. The Court finds that these amounts are  
10 reasonable considering the benefits provided to the Class.

11 19. The Court confirms the appointment of ILYM Group, Inc. as the Settlement  
12 Administrator, who has fulfilled its initial notice and reporting duties. The Court approves and orders  
13 the payment to the Settlement Administrator of **\$6,950.00** (“Settlement Administration Costs”),  
14 payable from the GSA, for settlement administration.

15 20. Pursuant to California Code of Civil Procedure section 384, following the expiration  
16 of the 180-day check-cashing deadline, should there be any uncashed checks, the Administrator shall  
17 transmit those amounts to the California State Controller’s Office for Unclaimed Property in the  
18 name of each Settlement Class Member and/or PAGA Employee who failed to cash their settlement  
19 check prior to the void date.

20 21. In accordance with California Rule of Court 3.771(b), notice of the concurrently  
21 filed Judgment will be given to the Settlement Class by the Settlement Administrator, who will  
22 post an electronic copy on its website for no less than ninety (90) calendar days following entry  
23 thereof.

24 22. This Final Approval Order and the concurrently filed Judgment are intended to be a  
25 final disposition of the Action in its entirety and are intended to be immediately appealable.

26 23. The obligations set forth in the Settlement are deemed part of this Final Approval  
27 Order and the concurrently filed Judgment, and the Parties and Settlement Administrator are ordered  
28 to carry out the Settlement according to its terms and provisions.

1           24.     Following entry of the concurrently filed Judgment, and without affecting the finality  
2 thereof, pursuant to California Code of Civil Procedure section 664.6, the Court shall retain  
3 continuing jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i)  
4 enforcing this Settlement and/or Judgment, (ii) addressing settlement administration matters, and (iii)  
5 addressing such post-Judgment matters as are permitted by law.

6           25.     The Settlement is finally approved but is not an admission by Defendant of the  
7 validity of any claims in this Action, or of any wrongdoing by Defendant or of any violation of  
8 law. Neither the Settlement nor any related document shall be offered or received in evidence in  
9 any civil, criminal, or administrative action or proceeding other than such proceedings as may be  
10 necessary to consummate or enforce the Settlement.

11           26.     The Court sets a (Non-Appearance) Compliance Hearing re: Distribution on  
12 May 23, 2025 at 10:00 a.m./p.m. in **Department 4**. Class Counsel are ordered to file a  
13 final report and declaration by the Administrator regarding settlement distribution no later than  
14 five (5) court days prior to the Compliance Hearing. No appearance will be required at the  
15 Compliance Hearing if the Settlement Administrator's declaration reports that all the distributions  
16 under the Agreement are complete.

17 **IT IS SO ORDERED.**

18 DATE: 07/23/2024

  
THE HON. DONNA D. GECK  
Judge of the Superior Court, Santa Barbara County