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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

DEC -7 2022

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individually and on behalf of other individuals
similarly situated

**SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO**

LUZ CABALLERO, individually and on
behalf of other individuals similarly situated,

CASE NO. CIVDS2004901
[Assigned for all purposes to Hon. Joseph T. Ortiz]

Plaintiff,

CLASS ACTION

vs.

**[PROPOSED] ORDER GRANTING FINAL
APPROVAL OF CLASS ACTION, CLASS
REPRESENTATIVE ENHANCEMENT
PAYMENTS, AND ATTORNEYS FEES AND
COSTS; AND JUDGMENT**

TYSON FOODS INC., a Delaware
corporation; TFI OF CALIFORNIA, INC.
fka GOLDEN ISLAND JERKY
COMPANY, INC., a California
Corporation; and DOES 1 through 100,
inclusive

Defendants.

Date: December 7, 2022
Time: 1:30 PM
Department: S17

Complaint Filed: February 14, 2020
Trial Date: None Set

1 **[PROPOSED] ORDER**

2 The Motion of plaintiff LUZ CABALLERO (“Plaintiff”) for Final Approval of Class Action
3 and PAGA Settlement came on regularly for hearing before this Court on December 7, 2022 pursuant
4 to California Rule of Court, rule 3.769 and this Court’s earlier Order Granting Preliminary Approval
5 of Class Action and PAGA Settlement (“Preliminary Approval Order”). Having considered the
6 parties’ Joint Stipulation of Class Action and PAGA Settlement and Release (“Settlement” or
7 “Settlement Agreement”) and the documents and evidence presented in support thereof, and
8 recognizing the sharply disputed factual and legal issues involved in this case, the risks of further
9 prosecution, and the substantial benefits to be received by the Class Members and the California Labor
10 Workforce Development Agency (“LWDA”) pursuant to the Settlement, the Court hereby makes a
11 final ruling that the proposed Settlement is fair, reasonable, and adequate, and is the product of good
12 faith, arm’s length negotiations between the parties. Good cause appearing therefore, the Court hereby
13 GRANTS Plaintiff’s Motion for Final Approval of Class Action and PAGA Settlement and HEREBY
14 ORDERS THE FOLLOWING:

15 1. Final judgment is hereby entered in conformity with the Settlement and this Court’s
16 Preliminary Approval Order. All terms used herein shall have the same meaning as defined in the
17 Settlement Agreement.

18 2. The conditional class certification contained in the Preliminary Approval Order is hereby
19 made final, and the Court thus certifies, for purposes of the Settlement, a Class defined as: “any and
20 all persons who are or were non-exempt employees employed by Defendant in California at any time
21 during August 21, 2016 to February 11, 2020.”

22 3. Plaintiff Luz Caballero is hereby confirmed as Class Representatives, and Marcus J.
23 Bradley, Esq. of Bradley/Grombacher, LLP is hereby confirmed as Class Counsel.

24 4. Notice was provided to Class Members as set forth in the Settlement Agreement, which
25 was approved by the Court on July 12, 2022, and the notice process has been completed in conformity
26 with the Court’s Orders. The Court finds that said notice was the best notice practicable under the
27 circumstances. The Class Notice provided due and adequate notice of the proceedings and matters set
28 forth therein, informed Class Members of their rights, and fully satisfied the requirements of California

1 Code of Civil Procedure section 1781(e), California Rule of Court, rule 3.769, and due process.

2 5. Out of a class of 489 members, there is are no objector in this case. As noted by other
3 courts, "[i]n the context of a settlement agreement, the test is not the maximum amount plaintiffs might
4 have obtained at trial on the complaint, but rather whether the settlement is reasonable under all of the
5 circumstances." (*Wershba v. Apple Computer* (2001) 91 Cal.App.4th 224, 250). As stated by the court
6 in *Wershba*: "A settlement need not obtain 100 percent of the damages sought in order to be fair and
7 reasonable. Compromise is inherent and necessary in the settlement process. Thus, even if 'the relief
8 afforded by the proposed settlement is substantially narrower than it would be if the suits were to be
9 successfully litigated,' this is no bar to a class settlement because 'the public interest may indeed be
10 served by a voluntary settlement in which each side gives ground in the interest of avoiding litigation.'" (*Wershba, supra*, 91 Cal.App.4th at 250, citing *Air Line Stewards, Etc v. American Airlines, Inc.* (7th
11 Cir. 1972) 455 F.2d 101, 109.)

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13 6. 489 class members received notice of the proposed settlement. All individuals elected to
14 participate in the settlement, representing 100% of the 489 settlement class members.

15 7. All Participating Class Members who did not opt out of the Settlement shall be deemed
16 to have released their respective Released Claims against the Released Parties.

17 8. The Court hereby approves the Settlement as set forth in the Settlement Agreement as
18 fair, reasonable, and adequate, and directs the parties to effectuate the Settlement Agreement
19 according to its terms.

20 9. For purposes of settlement only, the Court finds that: (a) the members of the Class are
21 ascertainable and so numerous that joinder of all members is impracticable; (b) there are questions of
22 law or fact common to the Class and there is a well-defined community of interest among the Class
23 Members with respect to the subject matter of the litigation; (c) the claims of the Class Representative
24 are typical of the claims of the members of the Class; (d) the Class Representative has fairly and
25 adequately protected the interests of the Class Members; (e) a class action is superior to other available
26 methods for an efficient adjudication of this controversy; and (f) Class Counsel are qualified to serve
27 as counsel for the Class Representative and the Class.

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1 10. The Court orders that within thirty (30) calendar days of the Effective Date (as defined
2 in the Settlement Agreement), Defendants shall transmit the amount of \$300,000 to ILYM Group, Inc.
3 (the "Settlement Administrator"), as provided for in the Settlement Agreement.

4 11. The Court finds that the Individual Settlement Payments, as provided for in the
5 Settlement, are fair, reasonable, and adequate, and orders the Settlement Administrator to distribute
6 these payments in conformity with the terms of the Settlement.

7 12. The Court finds that the payment to the LWDA in the amount of \$22,500 for its 75%
8 share of the civil penalties allocated under the Private Attorneys General Act ("PAGA") is fair,
9 reasonable, and adequate, and orders the Settlement Administrator to distribute this payment in
10 conformity with the terms of the Settlement.

11 13. The Court finds that a Class Representative enhancement award in the amount of \$7,500
12 to the Plaintiff is appropriate for the risks undertaken and their service to the Class. The Court finds
13 that this award is fair, reasonable, and adequate, and orders that the Settlement Administrator make
14 this payment in conformity with the terms of the Settlement.

15 14. The Court finds that attorneys' fees in the amount of \$100,000 and actual litigation costs
16 of \$11,596.37 for Class Counsel are fair, reasonable, and adequate, and orders that the Settlement
17 Administrator distribute these payments to Class Counsel in conformity with the terms of the
18 Settlement.

19 15. The Court orders that the Settlement Administrator shall be paid \$11,990 from the Gross
20 Settlement Amount for all of its work done and to be done until the completion of this matter, and
21 finds that sum appropriate.

22 16. This document shall constitute a final judgment pursuant to California Rule of Court, rule
23 3.769(h) which provides, "If the court approves the settlement agreement after the final approval
24 hearing, the court must make and enter judgment. The judgment must include a provision for the
25 retention of the court's jurisdiction over the parties to enforce the terms of the judgment. The court
26 may not enter an order dismissing the action at the same time as, or after, entry of judgment." The
27 Court will retain jurisdiction to enforce the Settlement, the Final Approval Order, and this Judgment.

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1 17. Defendant nor any of the Released Parties shall have any further liability for costs,
2 expenses, interest, attorneys' fees, or for any other charge, expense, or liability, except as provided for
3 by the Settlement Agreement.

4 18. Neither the making of the Settlement Agreement nor the entry into the Settlement
5 Agreement constitutes an admission by Defendant, nor is this Order a finding of the validity of any
6 claims in the Action or of any other wrongdoing. Further, the Settlement Agreement is not a
7 concession, and shall not be used as an admission of any wrongdoing, fault, or omission of any entity
8 or persons; nor may any action taken to carry out the terms of the Settlement Agreement be construed
9 as an admission or concession by or against Defendant or any related person or entity.

10 19. The Parties will bear their own costs and attorneys' fees except as otherwise provided by
11 this Court's Order awarding Class Counsels' award for attorneys' fees and litigation costs.

12 20. By virtue of this Judgment and as of the date Defendants fund the settlement, all
13 Settlement Class Members (as defined in the Settlement Agreement), have released and discharged
14 Defendant, and its past and present officers, directors, shareholders, unit holders, managers,
15 employees, agents, principals, heirs, representatives, accountants, auditors, consultants, successors,
16 predecessors in interest, subsidiaries, affiliates, parents, ultimate parent, and attorneys (collectively
17 the "Released Parties") from all claims that accrued during the Class Period that were and could have
18 been pled in the Complaint based on facts and allegations made therein with respect to the following
19 claims: (i) failure to provide compliant meal periods, or provide pay for non-compliant meal periods
20 at the correct rate(s) of pay; (ii) failure to authorize and permit compliant rest periods, or provide pay
21 for non-compliant rest periods at the correct rate(s) of pay; (iii) failure to provide accurate, itemized
22 wage statements and/or otherwise maintain accurate records; (iv) failure to timely pay wages upon
23 separation of employment; (v) failure to provide adequate seating; (vi) all claims for unfair business
24 practices that could have been premised on the facts, claims, causes of action or legal theories
25 described above; and (vii) all claims for violation of Labor Code sections 200, 201, 202, 203, 204,
26 210, 218, 226, 226.3, 226.7, 227.3, 510, 558, 1194, 1197, and 1197.1; and (b) all claims that accrued
27 during the PAGA Period that were and could have been pled in the Complaint based on facts and
28 allegations made therein for penalties under the California Private Attorneys' General Act with respect

1 to the following claims: (i) failure to provide compliant meal periods, or provide pay for non-
2 compliant meal periods at the correct rate(s) of pay; (ii) failure to authorize and permit compliant rest
3 periods, or provide pay for non-compliant rest periods at the correct rate(s) of pay; (iii) failure to
4 provide accurate, itemized wage statements and/or otherwise maintain accurate records; (iv) failure to
5 timely pay wages upon separation of employment; (v) failure to provide adequate seating; (vi) all
6 claims for unfair business practices that could have been premised on the facts, claims, causes of
7 action or legal theories described above; and (vii) all claims for violation of Labor Code sections 200,
8 201, 202, 203, 204, 210, 218, 226, 226.3, 226.7, 227.3, 510, 558, 1194, 1197, 1197.1 2698-2699, and
9 2699.5 and/or the IWC Wage Orders.

10 21. Also, by virtue of this Judgment and as of the date Defendant funds the settlement,
11 Plaintiff Luz Caballero has released, in addition to the Released Claims described above, all claims,
12 whether known or unknown, under federal or state law, against the Released Parties. Plaintiff
13 understand that this release includes unknown claims and that each is, as a result, waiving all rights
14 and benefits afforded by Section 1542 of the California Civil Code, which provides: "A general release
15 does not extend to claims that the creditor or releasing party does not know or suspect to exist in his
16 or her favor at the time of executing the release and that, if known by him or her, would have materially
17 affected his or her settlement with the debtor or released party."

18 22. The Court retains continuing jurisdiction to enforce this Settlement pursuant to California
19 Rule of Court, rule 3.769(h), even after the entry of judgment based thereon. Without affecting the
20 finality of the Settlement or Judgment entered, this Court shall retain exclusive and continuing
21 jurisdiction over the action and the Parties, including all Participating Class Members, for purposes of
22 enforcing and interpreting this Order and the Settlement.

23 23. By this judgment, the Settlement Class Members shall be deemed to have, and by
24 operation of the judgment shall have, fully, finally, and forever released, relinquished and discharged
25 all Released Claims.

26 24. Plaintiff shall give notice of this Judgment to Settlement Class Members pursuant to rule
27 3.771 of the California Rules of Court, by posting an electronic copy of the Judgment on the Settlement
28 Administrator's Website.

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25. Pursuant to Code of Civil Procedure section 664.6, the Court shall retain continuing jurisdiction over the Parties to this action to ensure effectuation of the Settlement in accordance with the terms of the Settlement and this Order and Judgment.

26. Plaintiff shall submit a copy of this Order to the LWDA within ten (10) days of entry of this Order.

27. Pursuant to Code of Civil Procedure section 668.5, judgment shall be entered through the filing of this Order and Judgment.

IT IS SO ADJUDICATED.

DATED: 12/7/22



HON. JOSEPH T. ORTIZ
SAN BERNARDINO SUPERIOR COURT