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9/29/2022 3:58 PM  
Kern County Superior Court  
By Christina Vasquez, Deputy

FILED  
SUPERIOR COURT OF CA, COUNTY OF KERN

OCT 21 2022

BY [Signature] DEPUTY

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF KERN**

RUBEN HERNANDEZ, on behalf of  
himself, and for all similarly situated  
persons, and the general public,

Plaintiffs,

v.

DELANO FARMS COMPANY, INC., and  
DOES 1 through 50, inclusive,

Defendants.

DIANA BERBER, an individual, on behalf  
of herself, all aggrieved employees, and the  
State of California as a Private Attorneys  
General,

Plaintiffs,

v.

DELANO FARMS COMPANY, a  
Washington corporation, and DOES 1-50,  
inclusive,

Defendants.

Lead Case No.: BCV-20-101130 TMS

**[PROPOSED] ORDER GRANTING  
FINAL APPROVAL TO CLASS AND  
PAGA ACTION SETTLEMENT AND  
APPLICATION FOR CLASS COUNSEL  
FEES, CLASS COUNSEL COSTS,  
ENHANCEMENT AWARDS,  
SETTLEMENT ADMINISTRATION  
COSTS, AND FINAL JUDGMENT  
THEREON**

Case No. BCV-20-101243

1 This matter came for hearing before this Court, on October 21, 2022 at 8:30 a.m., upon  
2 Plaintiffs' motion for final approval of the settlement set forth in the Joint Stipulation and  
3 Settlement Agreement of Class Action and PAGA Claims (the "Settlement Agreement"). The  
4 Court having granted final approval to the Settlement Agreement and HEREBY ORDERS and  
5 MAKES DETERMINATIONS as follows:

6  
7 1. The Settlement Agreement shall be enforced according to its terms.

8 2. The Court certifies the class for purposes of settlement, defined as all current and former  
9 hourly-paid, non-exempt employees of Defendant employed by Defendant in the state of California  
10 at any time during the Class Period, except those individuals that signed individual settlement  
11 agreements with Defendant. The Class Period extends from May 13, 2016 until June 13, 2022, the  
12 date the Court granted preliminary settlement approval. PAGA Employees include all hourly-paid,  
13 non-exempt employees of Defendant employed by Defendant in the state of California at any time  
14 during the PAGA Period. The PAGA Period extends from March 19, 2019 until June 13, 2022, the  
15 date the Court granted preliminary settlement approval.

16 3. This Court finds and determines that the applicable requirements of the California Code of  
17 Civil Procedure § 382 have been satisfied with respect to the Class, PAGA Members, and the  
18 proposed settlement. The Court hereby makes final its earlier provisional certification of the  
19 plaintiff class, as set forth in the Preliminary Approval Order. The Court finds that the settlement  
20 is fair, adequate, and reasonable, and falls within the range of reasonableness.

21 4. The Court finds and determines that the notice given to the Class Members and PAGA  
22 Employees fully and accurately informed them of all material elements of the proposed Settlement,  
23 and informs Class Members and PAGA Employees of their opportunity to object or comment  
24 thereon; informs PAGA Members that they do not have the opportunity to opt-out; was the best  
25 notice practicable under the circumstances; was valid, due and sufficient notice; and complied fully  
26 with the laws of the State of California, Federal Rules of Civil Procedure, the United States  
27 Constitution, due process and other applicable law. The Notice fairly and adequately described the  
28 Settlement and provided Class Members and PAGA Employees adequate instructions and a variety  
of means to obtain additional information. A full opportunity has been afforded to the Class



1 Members and PAGA Employees to participate in this hearing, and other persons wishing to be  
2 heard have been heard. Accordingly, the Court determines that all Settlement Class Members (as  
3 defined in the Settlement Agreement) who did not timely and properly execute a Request for  
4 Exclusion are bound by this order and resulting Judgment. PAGA Employees may not opt-out of  
5 the Settlement.

6 5. The Court finds and determines that zero (0) of the 208 Class Members have objected to  
7 the Settlement and three (3) Class Members have requested exclusion from the Settlement.

8 6. The Court finds and determines that the Settlement Agreement was the product of arm's  
9 length negotiations between experienced counsel. After considering Defendant's potential  
10 exposure, the likelihood of success on the class claims, the risk, expense, complexity and delay  
11 associated with further litigation, the risk of maintaining class certification through trial, the  
12 experience and views of Plaintiffs' Counsel, and the reaction of the Class to the Settlement, as well  
13 as other relevant factors, the Court finds that the settlement is fair, reasonable, and adequate, and  
14 in the best interests of the Settlement Class as a whole. Accordingly, the Court hereby grants final  
15 approval to the Settlement and hereby directs that the Settlement be effected in accordance with the  
16 Settlement Agreement and the following terms and conditions.

17 7. Class Counsel is awarded \$96,250 in attorney fees and \$11,214.668 in actual costs;

18 8. Plaintiffs are awarded an enhancement payment of \$7,500.00 each;

19 9. The claims administrator, CPT Group, Inc., is awarded \$10,000.00 in costs;

20 10. Payment of \$15,000 (75% of \$20,000 PAGA Payment) to the LWDA is approved;

21 11. Class counsel, via CPT Group, Inc., has provided notice to the Class Members and PAGA  
22 Employees pursuant to California Rules of Court, rule 3.771(b) and paragraph 48 of the Settlement  
23 Agreement. *A copy of the signed Final Approval Order and judgment is to be posted on the settlement administrator's website for not less than 60 days. LC*

24 12. Upon the Effective Date and funding in full of the Gross Settlement Amount by Defendant,  
25 Plaintiff and all Participating Class Members who do not timely and validly opt out shall be deemed  
26 to have fully and finally released Released Parties from all claims, rights, demands, liabilities, and  
27 causes of action that were pled, or which could have been pled in the Action including, without  
28 limitation, claims for: (a) failure to pay all regular wages, minimum wages and overtime wages  
due; (b) failure to provide meal periods or compensation in lieu thereof; (c) failure to provide rest

1 periods or compensation in lieu thereof; (d) failure to provide complete, accurate wage statements;  
2 (e) failure to pay wages timely at time of termination or resignation; (f) failure to pay for all hours  
3 worked, (g) failure to provide timely pay wages during employment; (h) violations of Business &  
4 Professions Code § 17200 et seq.; (i) failure to maintain required payroll records, (j) failure to pay  
5 for sick days, (k) failure to provide cool down rest periods, (l) failure to provide potable drinking  
6 water, (m) failure to provide adequate shade, (n) failure to provide legally compliant bathrooms,  
7 (o) all claims under the California Labor Code, PAGA, and/or for civil penalties that could have  
8 been premised on the claims, causes of action or legal theories described above or any of the claims,  
9 causes of action or legal theories of relief pleaded in the operative complaints including but not  
10 limited to Labor Code sections 210, 226.3, 1197.1, 558, and 2699, and (p) any and all wage and  
11 hour claims and that were asserted or could have been asserted based on the allegations contained  
12 in the Action, arising at any time during the Class Period. Plaintiff Ruben Hernandez is not  
13 releasing his causes of action for wrongful termination in violation of public policy or violation of  
14 Labor Code § 1102.5 in the operative complaint he filed as a part of the Action.

15 13. Upon the Effective Date and funding in full of the Gross Settlement Amount by Defendant,  
16 Plaintiff and all PAGA Employees shall be deemed to have fully, finally, and forever released,  
17 settled, compromised, relinquished and discharged any and all of the Released Parties of and from  
18 any and all civil penalty claims and PAGA claims predicated on the claims that were asserted or  
19 could have been asserted based on the allegations contained in the Action. The PAGA Employees  
20 shall be issued a check for their share of the PAGA Payment and shall not have the opportunity to  
21 opt out of the PAGA Payment and release of the PAGA Claims set forth herein. The PAGA  
22 Employees shall be bound by the release of the PAGA Claims regardless of whether they cash or  
23 deposit their PAGA Employee Payment.

24 14. Upon the Effective Date and funding in full of the Gross Settlement Amount by Defendant,  
25 the Class Representatives, for themselves only, shall be deemed to have fully, finally, and forever  
26 released, settled, compromised, relinquished and discharged any and all of the Released Parties  
27 from any and all Class Released Claims and also generally release and discharge the Released  
28 Parties from any and all any claims for wages, bonuses, severance pay, vacation pay, penalties,  
employment benefits, stock options, violation of any personnel policy, any claims based on



1 discrimination, harassment, unlawful retaliation, violation of public policy, or damages of any kind  
2 whatsoever, arising out of any common law torts, contracts, express or implied, any covenant of  
3 good faith and fair dealing, any theory of wrongful discharge, any theory of negligence, any theory  
4 of retaliation, any legal restriction on any Defendant's right to terminate the employment  
5 relationship, or any federal, state, or other governmental statute, executive order, regulation or  
6 ordinance, or common law, or any other basis whatsoever, to the fullest extent provided by law.  
7 Plaintiff Ruben Hernandez is not releasing his causes of action for wrongful termination in violation  
8 of public policy or violation of Labor Code § 1102.5 in the operative complaint he filed as a part  
9 of the Action. The Class Representatives shall be deemed to have, and by operation of this Court's  
10 Final Order and Judgment shall be deemed to have, expressly waived and relinquished to the fullest  
11 extent permitted by law the provisions, rights, and benefits of Section 1542 of the California Civil  
12 Code, or any other similar provision under federal or state law that purports to limit the scope of a  
13 general release, except as may otherwise be provided herein. The Class Representatives, for  
14 themselves, have read Section 1542 of the Civil Code of the State of California, which provides as  
15 follows:

16 **A general release does not extend to claims which the creditor or**  
17 **releasing party does not know or suspect to exist in his or her**  
18 **favor at the time of executing the release and that, if known by**  
19 **him or her, would have materially affected his or her settlement**  
20 **with the debtor or released party.**

21 The release of the claims of the Class Representatives as set forth in Paragraph 62 of the Settlement  
22 Agreement is a condition precedent to enforcement of the Settlement Agreement. This release of  
23 the claims as set forth in Paragraph 62 of the Settlement Agreement specifically excludes the causes  
24 of action for wrongful termination in violation of public policy and violation of Labor Code §  
25 1102.5 in Plaintiff Ruben Hernandez's operative complaint in the Action.

26 15. Nothing in this Order shall preclude any action to enforce the Parties' obligations under the  
27 Settlement Agreement or under this Order, including the requirement that Defendant make payment  
28 in accordance with the Settlement Agreement.

1 16. If, for any reason, the Settlement ultimately does not become final as defined by the  
2 paragraph 68 of the Settlement Agreement and the Settlement Agreement is terminated, such  
3 termination shall have the following effects: the Settlement Agreement shall have no effect, and no  
4 Party shall be bound by any of its terms; Defendant shall have no obligation to make any payments  
5 to any party, Settlement Class Member, PAGA Employee or Class Counsel; the preliminary  
6 approval order, final approval order and judgment shall be vacated; the Stipulation of Settlement  
7 and all negotiations, statements and proceedings relating thereto shall all be considered mediation  
8 and settlement privileged to the fullest extent provided by law, and without prejudice to the rights  
9 of any of the Parties, all of whom shall be restored to their respective positions prior to the  
10 Settlement; bar as otherwise discoverable, neither the Settlement Agreement nor any ancillary  
11 documents, actions, statements or filings in furtherance of settlement or potential settlement  
12 (including all matters associated with the mediation) shall be admissible or offered into evidence  
13 in the Action or any other action for any purpose whatsoever; the Party electing to terminate the  
14 agreement shall be responsible for paying Settlement Administration costs incurred, if any.

15 17. The Parties entered into the Settlement Agreement solely for the purpose of compromising  
16 and settling disputed claims. Defendant in no way admits any violation of law or any liability  
17 whatsoever to Plaintiffs, the Class, or PAGA Members, individually or collectively, all such  
18 liability being expressly denied by Defendant.

19 18. By means of this Final Approval Order, this Court hereby enters final judgment in this  
20 Action.

21 19. Without affecting the finality of this Final Approval Order and Judgment in any way, and  
22 as fully set forth in paragraph 74 of the Settlement Agreement, the Court retains jurisdiction of all  
23 matters relating to the interpretation, administration, implementation, effectuation and enforcement  
24 of this Order and the Settlement under Code of Civil Procedure § 664.6.

25 20. The Parties are hereby ordered to comply with the terms of the Settlement Agreement.

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21. Each side to bear its own costs and attorneys' fees except as provided by the Settlement Agreement and this Final Approval Order and Judgment.

The Court sets a ~~non~~<sup>sc</sup> appearance date for submission of a final report on Feb. 21, 2023, ~~202~~ at 8:30 a.m.

IT IS SO ORDERED.

Dated: 10-21-22

  
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JUDGE OF THE SUPERIOR COURT

THOMAS S. CLARK



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**PROOF OF SERVICE**

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years, and not a party to this action. My business address is 3435 Wilshire Blvd., Ste. 1710, Los Angeles, California 90010.

On September 29, 2022, I served the following document or documents:

**[PROPOSED] ORDER GRANTING FINAL APPROVAL TO CLASS AND PAGA ACTION SETTLEMENT AND APPLICATION FOR CLASS COUNSEL FEES, CLASS COUNSEL COSTS, ENHANCEMENT AWARDS, SETTLEMENT ADMINISTRATION COSTS, AND FINAL JUDGMENT THEREON**

**By e-mail.** I caused the documents to be sent to the person at the e-mail addresses listed below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

**Service List**

Howard A. Sagaser, Esq. Ian B. Wieland, Esq. Paul M. Parvanian, Esq. <b>SAGASER, WATKINS &amp; WIELAND, PC</b> 5260 N. Palm Ave. Ste. 400 Fresno, CA 93704 Phone: 559.421.7000 Fax: 559.473.1483 has@sw2law.com ian@sw2law.com paulp@sw2law.com	Attorneys for Defendants
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I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on September 29, 2022, at Los Angeles California.

  
\_\_\_\_\_  
JACKELINE HERNANDEZ