

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.: NAME: Douglas Han (SBN 232858) FIRM NAME: JUSTICE LAW CORPORATION STREET ADDRESS: 751 N. Fair Oaks Avenue, Suite 101 CITY: Pasadena TELEPHONE NO.: (818) 230-7502 E-MAIL ADDRESS: dhan@justicelawcorp.com ATTORNEY FOR (name): Plaintiff Jacob Blea	FOR COURT USE ONLY E-RECEIVED by Superior Court of CA, County of Santa Clara, on 5/2/2023 3:07 PM Reviewed By: R. Walker Case #20CV375150 Envelope: 11865247
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA STREET ADDRESS: 191 North First Street MAILING ADDRESS: 191 North First Street CITY AND ZIP CODE: San Jose, California 95113 BRANCH NAME: Downtown Superior Court	CASE NUMBER: 20CV375150
PLAINTIFF/PETITIONER: Jacob Blea DEFENDANT/RESPONDENT: Pacific Groservice Inc., et al. OTHER:	JUDICIAL OFFICER: Honorable Sunil Kulkarni
<p style="text-align: center;">PROPOSED ORDER (COVER SHEET)</p>	DEPT: 1

NOTE: This cover sheet is to be used to electronically file and submit to the court a proposed order. The proposed order sent electronically to the court must be in PDF format and must be attached to this cover sheet. In addition, a version of the proposed order in an editable word-processing format must be sent to the court at the same time as this cover sheet and the attached proposed order in PDF format are filed.

1. Name of the party submitting the proposed order:
Plaintiff Jacob Blea

2. Title of the proposed order:
[Proposed] Order of Final Approval and Judgment

3. The proceeding to which the proposed order relates is:
 - a. Description of proceeding: Motion for Final Approval of Class Action Settlement
 - b. Date and time: June 8, 2023 at 1:30 p.m.
 - c. Place: Department 1

4. The proposed order was served on the other parties in the case.

Douglas Han

(TYPE OR PRINT NAME)



(SIGNATURE OF PARTY OR ATTORNEY)

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

JACOB BLEA, individually, and on behalf of
aggrieved employees pursuant to the Private
Attorneys General Act (“PAGA”);

Plaintiff,

v.

PACIFIC GROSERVICE INC., a California
corporation; PITTSBURG WHOLESALE
GROCERS, INC. d/b/a PITCO FOODS, a
California corporation; and DOES 1 through
100, inclusive;

Defendants.

Case No.: 20CV375150

Assigned for All Purposes to:
Honorable Sunil R. Kulkarni
Department 1

CLASS ACTION

**[PROPOSED] ORDER OF FINAL
APPROVAL AND JUDGMENT**

Hearing Date: June 8, 2023
Hearing Time: 1:30 p.m.
Hearing Place: Department 1

Complaint Filed: December 28, 2020
FAC Filed: May 11, 2022
Trial Date: None Set

1 The Court, having read the papers filed regarding Plaintiff Jacob Blea’s (“Plaintiff”)
2 Motion for Final Approval of Class Action Settlement, and considering the papers submitted in
3 support of the motion, including the Joint Stipulation and Settlement Agreement (“Settlement
4 Agreement,” “Settlement,” or “Agreement”), hereby **FINDS AND ORDERS:**

5 Plaintiff and Defendants Pacific Groservice Inc. and Pittsburg Wholesale Grocers, Inc.
6 d/b/a Pitco Foods (“Defendants”) entered the Settlement Agreement on or about October 11,
7 2022 to settle this lawsuit.

8 The Court entered an order dated December 9, 2022 preliminarily approving the
9 settlement of this lawsuit (“Preliminary Approval Order”), consistent with the Code of Civil
10 Procedure section 382 and California Rule of Court 3.769, ordering notice to be sent to Class
11 Members, providing Class Members with an opportunity to object to the Settlement or exclude
12 themselves from the Class, and scheduling a Final Approval Hearing.

13 The Court held a Final Approval Hearing on June 8, 2023 to determine whether to give
14 final approval to the Settlement of this lawsuit.

15 1. Incorporation of Other Documents. This Order of Final Approval and Judgment
16 (“Order and Judgment”) incorporates the Settlement Agreement. Unless otherwise provided
17 herein, all capitalized terms in this Order and Judgment shall have the same meaning as set forth
18 in the Settlement Agreement.

19 2. Jurisdiction. Because adequate notice has been disseminated and the Class has
20 been given the opportunity to request exclusion, the Court has personal jurisdiction with respect
21 to the claims of all Class Members. The Court has subject matter jurisdiction over this lawsuit,
22 including jurisdiction to approve the Settlement and grants final certification of the Class.

23 3. Final Class Certification. The Court finds the Class satisfies all applicable
24 requirements of Code of Civil Procedure section 382, California Rule of Court 3.769, and due
25 process. The Court certifies the Class consisting of all hourly-paid or non-exempt employees
26 employed by Defendants within the State of California during the time period from December
27 28, 2016, to July 27, 2022, excluding those persons that have signed release agreements
28 (“Class,” “Class Members,” and “Class Period”). There are one thousand one hundred thirty-two

1 (1,132) Class Members who did not submit valid and timely requests to exclude themselves from
2 the class action Settlement (“Participating Class Members”).¹

3 4. Adequacy of Representation. Class Counsel fully and adequately represented the
4 Class for the purposes of entering and implementing the Settlement and satisfied the
5 requirements of Code of Civil Procedure section 382.

6 5. Notice Packet. The Court finds the Notice of Class and Representative Action
7 Settlement (“Class Notice”) and the Election Not To Participate In (“Opt Out From”) Class
8 Action Settlement Form (“Exclusion Form”) (collectively, known as the “Notice Packet”) and its
9 distribution to Class Members were implemented pursuant to the Settlement and this Court’s
10 Preliminary Approval Order. The Court also finds the Notice Packet:

11 a. constitutes notice reasonably calculated to apprise Class Members of: (i)
12 pendency of this lawsuit; (ii) material terms and provisions of the Settlement Agreement and
13 their rights; (iii) their right to object to any aspect of the Settlement Agreement; (iv) their right to
14 exclude themselves from the Settlement Agreement; (v) their right to receive settlement
15 payments; (vi) their right to appear at the Final Approval Hearing; and (vii) binding effect of the
16 orders and judgment in this lawsuit on all Participating Class Members;

17 b. constitutes notice that fully satisfied the requirements of Code of Civil
18 Procedure section 382, California Rule of Court 3.769, and due process;

19 c. constitutes the best practicable notice to Class Members under the
20 circumstances of this lawsuit; and

21 d. constitutes notice reasonable, adequate, and sufficient to Class Members.

22 6. Final Settlement Approval. The terms and provisions of the Settlement
23 Agreement have been entered into good faith and are the product of arm’s-length negotiations by
24 experienced counsel who have done a meaningful investigation of the claims. The Settlement
25 Agreement and all its terms and provisions are fully and finally approved as fair, reasonable,
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27 ¹ The Settlement Administrator mailed one thousand one hundred thirty-six (1,136) Notice
28 Packets and received four (4) requests for exclusion. Thus, there are one thousand one
hundred thirty-two (1,132) Participating Class Members.

1 adequate, and in the best interests of the Parties. The Parties are hereby directed to implement the
2 Settlement Agreement according to its terms and provisions.

3 7. Binding Effect. The terms and provisions of the Settlement Agreement and this
4 Order and Judgment are binding on Plaintiff, Participating Class Members, Eligible Aggrieved
5 Employees, and their spouses, heirs, registered domestic partners, executors, administrators,
6 successors, and assigns. In addition, those terms shall have res judicata and other preclusive
7 effect in all pending and future claims, lawsuits, or other proceedings maintained by or on behalf
8 of any such persons to the extent those claims, lawsuits, or other proceedings involve matters
9 that were or could have been raised in this lawsuit and are encompassed by the Released Claims
10 and Private Attorneys General Act of 2004 (“PAGA”) Released Claims. The Settlement
11 Agreement will have no binding effect upon, and provide no res judicata preclusion to, those
12 Class Members who have submitted timely requests for exclusion.

13 8. Enforcement of Settlement. Nothing in this Order and Judgment shall preclude
14 any action to enforce the terms and provisions of the Settlement Agreement.

15 9. Release of Claims. As of the Effective Final Settlement Date, in exchange for the
16 consideration set forth in the Agreement, Plaintiff and the Participating Class Members release
17 the Released Parties from the Released Claims for the Class Period.

18 a. PAGA Release. As of the Effective Final Settlement Date, the LWDA and each
19 Eligible Aggrieved Employee, including Plaintiff, individually and on behalf of
20 their heirs, executors, administrators, representatives, attorneys, successors, and
21 assigns are voluntarily and knowingly barred from bringing any action for the
22 PAGA Released Claims during the PAGA Period.

23 b. Plaintiff’s Release of Claims and General Release. As of the Effective Final
24 Settlement Date, and in exchange for the Class Representative Enhancement
25 Payment to Plaintiff, in recognition of his work and efforts in obtaining the
26 benefits for the Class and undertaking the risk for the payment of costs if this
27 matter had not successfully resolved, Plaintiff provides a general release of claims
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1 for himself and his spouse, heirs, successors, and assigns. Plaintiff's general
2 release of claims also includes a waiver of Civil Code section 1542.

- 3 c. Released Parties. The Released Parties include Defendants and their parents,
4 predecessors, successors, all affiliates, subsidiaries, officers, directors, members,
5 agents, employees, and stockholders.

6 10. Class Representative Enhancement Payment. The Court finds the Class
7 Representative Enhancement Payment of \$10,000, to be paid to Plaintiff out of the Gross
8 Settlement Amount, to be reasonable and appropriate. The Class Representative Enhancement
9 Payment is to be paid pursuant to the terms and provisions set forth in the Agreement.

- 10 a. The rationale for making enhancement payments is class representatives should
11 be compensated for the expense and risk they incurred in conferring a benefit on
12 the Class. Criteria courts consider include: (1) risk to the class representatives in
13 commencing suit; (2) notoriety and personal difficulties; (3) amount of time and
14 effort spent by the class representatives; (4) duration of the litigation; and (5)
15 personal benefit (or lack thereof) enjoyed by class representatives.

- 16 b. The Court reviewed Plaintiff's declaration outlining his involvement. Given the
17 risks inherent in the services as the class representative, duration of the case and
18 time involved, and benefits created for the Class, the Court approves the payment
19 of the Class Representative Enhancement Payment of \$10,000 to Plaintiff.

20 11. Attorney Fee Award and Cost Award. The Court finds the Attorney Fee Award
21 of \$833,333.33, to be paid out of the Gross Settlement Amount to Class Counsel, to be
22 reasonable and appropriate. In addition, the Court finds the Cost Award as reimbursement for
23 actual litigation costs incurred of \$15,467.55, to be paid to Class Counsel out of the Gross
24 Settlement Amount, to be reasonable and appropriate. Such fees and costs are to be paid pursuant
25 to the terms and provisions set forth in the Settlement Agreement. Defendants shall not be
26 required to pay for any other attorneys' fees and expenses, costs, or disbursements incurred by
27 Class Counsel or any other counsel representing Plaintiff or Class Members. Defendants shall
28 also not be required to pay for any other attorneys' fees and expenses, costs, or disbursements

1 incurred by Plaintiff or Class Members in connection with or related in any manner to this
2 lawsuit, Settlement Agreement, settlement administration, and/or Released Claims and PAGA
3 Released Claims.

4 a. The Court has an independent right and responsibility to review the Attorney Fee
5 Award and only award so much as it determines reasonable. (See *Garabedian v.*
6 *Los Angeles Cellular Telephone Co.* (2004) 118 Cal.App.4th 123, 127-28.) The
7 Attorney Fee Award of \$833,333.33 is one-third (1/3) of the common fund
8 created for the benefit of the Class and is supported by use of the percentage-fee
9 method.² (See *Laffitte v. Robert Half International, Inc.* (2016) 1 Cal.5th 480,
10 504.) Considering the exceptional results achieved, financial risk undertaken,
11 novel and difficult nature of this litigation, skills required, percentage fees award
12 in previous and other cases, and contingent fees charged in the marketplace, the
13 Court finds the Attorney Fee Award is consistent with the marketplace, is
14 reasonable, and is approved.

15 b. The Court reviewed the declaration of Douglas Han regarding the costs expended
16 in prosecuting this case. Under the terms of the Settlement, Class Counsel may
17 seek reimbursement of up to \$25,000 in litigation costs. The Court finds Class
18 Counsel expended \$15,467.55 in litigation costs, and such costs were reasonable.
19 Thus, the Court approves the payment of the Cost Award of \$15,467.55 from the
20 common fund for the reimbursement of Class Counsel's litigation costs.

21 12. Administration Costs. The Court finds Administration Costs of \$18,000, to be
22 paid to the Settlement Administrator out of the Gross Settlement Amount, to be reasonable and
23 appropriate. The Administration Costs are to be paid pursuant to terms and provisions set forth in
24 the Settlement Agreement.

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28 ² The Parties decided to request an Attorney Fee Award that is one-third (1/3) of the Gross Settlement Amount instead of thirty-five percent (35%) of the Gross Settlement Amount as

1 a. The Court reviewed the declaration of Veronica Olivares from CPT Group, Inc.,
2 the Court-approved Settlement Administrator. The Court finds notice was
3 provided to the Class pursuant to the Preliminary Approval Order, constitutes the
4 best practicable notice to the Class, and satisfied due process. Thus, the Court
5 approves the payment of the Administration Costs of \$18,000 for the Settlement
6 Administrator's services in administering the Settlement.

7 13. PAGA Payment. The Court finds the PAGA Payment of \$100,000, seventy-five
8 percent (75%) of which (\$75,000) will be paid to the LWDA out of the Gross Settlement
9 Amount and twenty-five percent (25%) of which (\$25,000) shall be distributed to Eligible
10 Aggrieved Employees, on a pro rata basis, to be reasonable and appropriate. The PAGA Payment
11 is to be paid pursuant to the terms and provisions set forth in the Settlement Agreement.

12 14. Funding the Settlement. No later than fourteen (14) calendar days after the date
13 the Final Approval of the Settlement can no longer be appealed or, if there are no objectors and
14 no plaintiff in intervention at the time the Court grants Final Approval of the Settlement, the date
15 the Court enters judgment granting Final Approval of the Settlement, Defendants shall deposit
16 the Gross Settlement Amount of \$2,500,000 needed to pay the entire Gross Settlement Amount,
17 as well as Defendants' share of employer-side payroll taxes, by wiring the funds to the
18 Settlement Administrator. Within fourteen (14) calendar days after the Settlement
19 Administrator's receipt of the Gross Settlement Amount, the Settlement Administrator shall
20 calculate and disburse all payments due under the Settlement Agreement.

21 15. Fairness of the Settlement. As noted in the Preliminary Approval Order, the
22 Settlement is entitled to a presumption of fairness. In the moving papers, Plaintiff contends the
23 Settlement was the product of arm's-length negotiations following extensive litigation,
24 discovery, and exchange of documentation. The negotiations were facilitated with the aid of
25 Jeffrey A. Ross, an experienced and well-respected mediator.

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set forth in the Settlement Agreement.

1 a. The fairness of the Settlement is demonstrated by there being no objections to and
2 only four (4) requests for exclusion from the Settlement.

3 b. The fairness of the Settlement is further illustrated by the *gross average*
4 Individual Settlement Share being approximately \$1,345.58, and the *gross highest*
5 Individual Settlement Share being about \$5,140.04.

6 16. Uncashed Checks. Participating Class Members and Eligible Aggrieved
7 Employees must cash or deposit their Individual Settlement Share and Individual PAGA
8 Payment checks within one hundred eighty (180) calendar days after the checks are mailed to
9 them. The Settlement Administrator will pay uncashed settlement checks to the State
10 Controller's Unclaimed Property Fund in the name of the Class Members.

11 17. Modification of Settlement Agreement. The Participating Class Members are
12 hereby authorized, upon approval of the Court, to agree to and adopt amendments to or
13 modifications of the Settlement Agreement by an express written instrument signed by counsel
14 for all Parties or their successors-in-interest and approved by the Court. Such amendments or
15 modifications shall be consistent with this Order and Judgment and cannot limit the rights of
16 Participating Class Members under the Settlement Agreement.

17 18. Final Accounting and Compliance. The Court sets a nonappearance case review
18 for February 9, 2024 at 1:30 p.m. in Department 1. Within ten (10) court days before this
19 hearing, Plaintiff shall file a compliance status report. Pursuant to Code of Civil Procedure
20 section 384, the compliance status report shall specify the total amount paid to Participating
21 Class Members and the residual of the unclaimed settlement funds that will be paid to the entity
22 identified as the recipient of such funds in the Settlement Agreement, along with a proposed
23 amended judgment to facilitate this payment.

24 a. Holdback Provision. Ten percent (10%) of the Attorney Fee Award (\$83,333.33)
25 shall be held in an interest-bearing account, maintained by the Settlement
26 Administrator, pending the submission and approval of a final compliance status
27 report after completion of the distribution process.

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1 19. Retention of Jurisdiction. The Court has jurisdiction to enter this Order and
2 Judgment. This Court expressly retains jurisdiction for the administration, interpretation,
3 effectuation, and/or enforcement of the Settlement Agreement and of this Order and Judgment,
4 and for any other necessary purpose, including, without limitation:

- 5 a. enforcing the terms and provisions of the Settlement and resolving any disputes,
6 claims, or causes of action in this lawsuit that, in whole or in part, are related to or
7 arise out of the Settlement or this Order and Judgment;
- 8 b. entering such additional orders as may be necessary or appropriate to protect or
9 effectuate this Order and Judgment approving the Settlement, and permanently
10 enjoining Plaintiff from initiating or pursuing related proceedings, or to ensure the
11 fair and orderly administration of the Settlement; and
- 12 c. entering any other necessary or appropriate orders to protect and effectuate this
13 Court's retention of continuing jurisdiction.

14 The Motion for Final Approval of Class Action Settlement, Attorney Fee Award, Cost
15 Award, and Class Representative Enhancement Payment is GRANTED. The Settlement
16 Administrator is directed to carry out the terms of the Settlement Agreement forthwith.

17 THE PARTIES ARE HEREBY ORDERED TO COMPLY WITH THE TERMS OF
18 THE SETTLEMENT AGREEMENT. PURSUANT TO CALIFORNIA RULES OF COURT
19 3.769, THE COURT HEREBY ENTERS FINAL JUDGMENT BASED UPON THE TERMS
20 OF THIS ORDER AND SETTLEMENT AGREEMENT AND, WITHOUT AFFECTING THE
21 FINALITY OF THIS MATTER, RETAINS EXCLUSIVE AND CONTINUING
22 JURISDICTION TO ENFORCE THIS ORDER, THE SETTLEMENT AGREEMENT, AND
23 THE JUDGMENT THEREON.

24 IT IS SO ORDERED.

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26 DATED: _____

27 HONORABLE SUNIL R. KULKARNI
28 SUPERIOR COURT JUDGE