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9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 FOR THE COUNTY OF SANTA CLARA

11  
12 MARTIN ASECIO ROJAS, individually, and  
13 on behalf of other members of the general public  
similarly situated,

14 Plaintiff,

15 vs.

16 PULMUONE FOODS USA, INC., an Iowa  
17 corporation; PULMUONE U.S.A., INC., a  
California corporation; NASOYA FOODS  
18 USA, LLC, a Delaware limited liability  
company; and DOES 1 through 10, inclusive,

19 Defendants.  
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Case No.: 21CV376481

Assigned to the Hon. Theodore C. Zayner

**~~[AMENDED PROPOSED]~~ ORDER AND  
JUDGMENT GRANTING MOTION FOR  
FINAL APPROVAL OF CLASS ACTION  
SETTLEMENT AND MOTION FOR  
ATTORNEYS' FEES, COSTS AND  
EXPENSES, AND A CLASS  
REPRESENTATIVE ENHANCEMENT  
PAYMENT**

Date: August 23, 2023

Time: 1:30 p.m.

Place: Department 19

Complaint Filed: February 26, 2021

1 **ORDER**

2 This matter came before the Court for a hearing on the Motion for Final Approval of the Class  
3 Action Settlement and Motion for Attorneys' Fees, Costs and Expenses, and a Class Representative  
4 Enhancement Payment (collectively, the "Motions"). Due and adequate notice having been given to Class  
5 Members as required by the Court's Preliminary Approval Order, and the Court having reviewed the  
6 Motions, and determining that the settlement is fair, adequate and reasonable, and otherwise being fully  
7 informed and **GOOD CAUSE** appearing therefore, it is hereby **ORDERED AS FOLLOWS**:

8 1. For the reasons set forth in the Preliminary Approval Order, which are adopted and  
9 incorporated herein by reference, this Court finds that the requirements of California Code of Civil  
10 Procedure section 382 and rule 3.769 of the California Rules of Court have been satisfied.

11 2. This Order hereby adopts and incorporates by reference the terms and conditions of the  
12 Joint Stipulation of Class Action Settlement and Release ("Settlement Agreement" or "Settlement"),  
13 together with the definitions and terms used and contained therein.

14 3. The Court finds that it has jurisdiction over the subject matter of the action and over all  
15 parties to the action, including all members of the Settlement Class.

16 4. The Class Notice fully and accurately informed Class Members of all material elements  
17 of the proposed settlement and of their opportunity to opt out or object; was the best notice practicable  
18 under the circumstances; was valid, due, and sufficient notice to all Class Members; and complied fully  
19 with the laws of the State of California and due process. The Class Notice fairly and adequately described  
20 the settlement and provided Class Members with adequate instructions and a variety of means to obtain  
21 additional information.

22 5. Class Members were given a full opportunity to participate in the Final Approval hearing,  
23 and all Class Members and other persons wishing to be heard have been heard. Accordingly, the Court  
24 determines that all Class Members who did not timely and properly opt out of the settlement are bound by  
25 this Order.

26 6. The Court has considered all relevant factors for determining the fairness of the settlement  
27 and has concluded that all such factors weigh in favor of granting final approval. In particular, the Court  
28 finds that the settlement was reached following meaningful discovery and investigation conducted by

1 Plaintiff's Counsel; that the settlement is the result of serious, informed, adversarial, and arm's-length  
2 negotiations between the Parties; and that the terms of the settlement are in all respects fair, adequate, and  
3 reasonable.

4 7. In so finding, the Court has considered all evidence presented, including evidence  
5 regarding the strength of Plaintiff's case; the risk, expense, and complexity of the claims presented; the  
6 likely duration of further litigation; the amount offered in settlement; the extent of investigation and  
7 discovery completed; and the experience and views of counsel. The Parties have provided the Court with  
8 sufficient information about the nature and magnitude of the claims being settled, as well as the  
9 impediments to recovery, to make an independent assessment of the reasonableness of the terms to which  
10 the Parties have agreed.

11 8. Accordingly, the Court hereby approves the settlement as set forth in the Settlement  
12 Agreement and expressly finds that the settlement is, in all respects, fair, reasonable, adequate, and in the  
13 best interests of the entire Settlement Class and hereby directs implementation of all remaining terms,  
14 conditions, and provisions of the Settlement Agreement. The Court also finds that settlement now will  
15 avoid additional and potentially substantial litigation costs, as well as delay and risks if the Parties were to  
16 continue to litigate the case. Additionally, after considering the monetary recovery provided by the  
17 settlement in light of the challenges posed by continued litigation, the Court concludes that the settlement  
18 provides Class Members with fair and adequate relief.

19 9. The Settlement Agreement is not an admission by Defendants or by any other Released  
20 Party, nor is this Order a finding of the validity of any allegations or of any wrongdoing by Defendants or  
21 any other Released Party. Neither this Order, the Settlement Agreement, nor any document referred to  
22 herein, nor any action taken to carry out the Settlement Agreement, may be construed as, or may be used  
23 as, an admission of any fault, wrongdoing, omission, concession, waiver of defenses, or liability  
24 whatsoever by or against Defendants or any of the other Released Parties.

25 10. Final approval shall be with respect to: All persons who were employed by Defendants in  
26 any non-exempt hourly position in the State of California at any time during the period from February 26,  
27 2017 up to April 13, 2023.

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1           11. Plaintiff Martin Asencio Rojas is an adequate and suitable representative and is hereby  
2 appointed the Class Representative for the Settlement Class. The Court finds that Plaintiff's investment  
3 and commitment to the litigation and its outcome ensured adequate and zealous advocacy for the  
4 Settlement Class, and that his interests are aligned with those of the Settlement Class. The Court hereby  
5 awards Plaintiff a Class Representative Enhancement Payment of \$10,000 for his service on behalf of the  
6 Settlement Class, and for agreeing to a general release of all claims arising out of his employment with  
7 Defendants.

8           12. The Court finds that the attorneys at Capstone Law APC and Daily Aljian LLP have the  
9 requisite qualifications, experience, and skill to protect and advance the interests of the Settlement Class.  
10 The Court therefore finds that counsel satisfy the professional and ethical obligations attendant to the  
11 position of Class Counsel, and hereby appoints Capstone Law APC and Daily Aljian LLP as counsel for  
12 the Settlement Class.

13           13. The settlement of civil penalties under PAGA in the amount of \$51,868.08 is hereby  
14 approved. Seventy-Five Percent (75%), or \$38,901.06, shall be paid to the California Labor and Workforce  
15 Development Agency. The remaining Twenty-Five Percent (25%), or \$12,967.02, will be paid to PAGA  
16 Members.

17           14. The Court hereby awards \$166,667 in attorneys' fees and \$14,739.64 in costs and  
18 expenses to Capstone Law APC and Daily Aljian LLP. The Court finds that the requested award of  
19 attorneys' fees is reasonable for a contingency fee in a class action such as this; i.e., one-third of the  
20 common fund created by the settlement. Counsel have also established the reasonableness of the requested  
21 award of attorneys' fees via their lodestar crosscheck, and the Court finds that the rates, hours billed, and  
22 risk multiplier are fair and reasonable. The award of attorneys' fees and costs will be divided as follows:  
23 (i) \$133,333.60 in attorneys' fees and \$14,739.64 in litigation costs to Capstone Law APC; and (ii)  
24 \$33,333.40 in attorneys' fees to Daily Aljian LLP.

25           15. The Court approves settlement administration costs and expenses in the amount of  
26 \$10,000 to CPT Group, Inc.

27           16. All Class Members were given a full and fair opportunity to participate in the Approval  
28 Hearing, and all members of the Settlement Class wishing to be heard have been heard. Members of the

1 Settlement Class also have had a full and fair opportunity to exclude themselves from the proposed  
2 settlement and the class. Accordingly, the terms of the Settlement Agreement and of the Court's Order and  
3 Judgment shall be forever binding on all Participating Class Members. These Participating Class Members  
4 have released and forever discharged the Released Parties for any and all Released Class Claims during  
5 the Class Period:

6 All claims asserted in the Action by Plaintiff and the Settlement Class or any other  
7 claims that could reasonably have been asserted in the Action based on the facts  
8 alleged, including but not limited to: (a) failure to pay overtime in violation of  
9 Labor Code §§ 510 and 1198; (b) failure to pay minimum wages in violation of  
10 Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198; (c) failure to provide meal  
11 periods in violation of Labor Code §§ 226.7, 512(a), 516, and 1198; (d) failure to  
12 authorize and permit rest periods in violation of Labor Code §§ 226.7, 516, and  
13 1198; (e) failure to provide compliant wage statements and maintain payroll  
14 records in violation of Labor Code §§ 226(a), 1174(d), and 1198; (f) failure to  
15 provide timely wages upon termination in violation of Labor Code §§ 201 and  
16 202; (g) failure to timely pay wages during employment in violation of Labor  
17 Code § 204; (h) failure to reimburse for business expenses in violation of Labor  
18 Code § 2802; and (i) a violation of California Business & Professions Code §§  
19 17200, *et seq.* based on the preceding claims for failure to provide overtime wages,  
20 minimum wages, meal and rest periods, accurate and complete wage statements,  
21 maintain accurate payroll records, timely pay all wages earned during employment  
22 and reimburse for business-related expenses; (j) a violation of California Business  
23 & Professions Code §§ 17200, *et seq.* for failure to pay overtime wages, minimum  
24 wages, meal and rest period premiums pursuant to Labor Code § 226.7, accurate  
25 and complete wage statements, maintain accurate payroll records, timely pay all  
26 wages earned during employment, and reimburse for business-related expenses;  
27 and (k) civil penalties pursuant to the Private Attorneys General Act of 2004,  
28 Labor Code §§2698 *et seq.*

17. Additionally, all PAGA Members and the LWDA have released and forever discharged  
the Released Parties for any and all Released PAGA Claims during the PAGA Period: All claims for civil  
penalties under California Labor Code §§ 2698, *et seq.*, that were brought or could reasonably have been  
brought based on the facts alleged in Plaintiff's letter to the LWDA and the Released Class Claims during  
the PAGA Period.

18. Judgment in this matter is entered in accordance with the above findings. Without  
affecting the finality of the Judgment, the Court shall retain exclusive and continuing jurisdiction over the  
above-captioned action and the parties, including all Participating Settlement Members and PAGA  
Members, for purposes of enforcing the terms of the Judgment entered herein.

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19. Plaintiff shall file a declaration from the Settlement Administrator regarding the completion of settlement administration activities no later than June 5, 2024, as well as an amended judgment concerning the payment of unclaimed residuals to the cy pres beneficiary, Worksafe. The Final Accounting Hearing is set for June 12, 2024 ,at 2:30 , m.

**IT IS SO ORDERED, ADJUDGED, AND DECREED.**



Dated: October 6, 2023

\_\_\_\_\_  
Hon. Theodore C. Zayner  
Santa Clara County Superior Court Judge

1 **PROOF OF SERVICE**

2 I am employed in the State of California, County of Los Angeles. I am over the age of  
3 18 and not a party to the within suit; my business address is 1875 Century Park East, Suite 1000  
4 Los Angeles, California 90067.

5 On **October 2, 2023**, I served the document described as: **[AMENDED PROPOSED] ORDER  
6 AND JUDGMENT GRANTING MOTION FOR FINAL APPROVAL OF CLASS ACTION  
7 SETTLEMENT AND MOTION FOR ATTORNEYS' FEES, COSTS AND EXPENSES, AND A  
8 CLASS REPRESENTATIVE ENHANCEMENT PAYMENT** on the interested parties in this action  
9 by sending [ ] the original [or] [✓] a true copy thereof [✓] to interested parties as follows [or] [ ] as stated  
10 on the attached service list:

11 Jason A. Geller (SBN 168149)  
12 jgeller@fisherphillips.com  
13 Victoria Shin (SBN 306347)  
14 vshin@fisherphillips.com  
15 FISHER & PHILLIPS LLP  
16 One Embarcadero Center, Suite 2050  
17 San Francisco, California 94111  
18 Telephone: (415) 490-9000  
19 Facsimile: (415) 490-9001

*Attorneys for Defendant*  
PULMUONE FOODS USA, INC. and  
NASOYA FOODS USA, LLC

20 [ ] **BY MAIL (ENCLOSED IN A SEALED ENVELOPE):** I deposited the envelope(s)  
21 for mailing in the ordinary course of business at Los Angeles, California. I am “readily  
22 familiar” with this firm’s practice of collection and processing correspondence for  
23 mailing. Under that practice, sealed envelopes are deposited with the U.S. Postal  
24 Service that same day in the ordinary course of business with postage thereon fully  
25 prepaid at Los Angeles, California.

26 [ ] **BY E-MAIL:** I hereby certify that this document was served from Los Angeles,  
27 California, by e-mail delivery on the parties listed herein at their most recent known e-  
28 mail address or e-mail of record in this action.


[ ] **BY FAX:** I hereby certify that this document was served from Los Angeles, California,  
by facsimile delivery on the parties listed herein at their most recent fax number of  
record in this action.

[ ] **BY PERSONAL SERVICE:** I delivered the document, enclosed in a sealed envelope,  
by hand to the counsel for Defendant.

[X] **BY ELECTRONIC SERVICE:** I caused the document(s) to be transmitted  
electronically via One Legal eService to the individuals listed above, as they exist on  
that database. This will constitute service of the document(s).

I declare under penalty of perjury under the laws of the State of California that the  
foregoing is true and correct. Executed on **October 2, 2023**, at Los Angeles, California.

25 Xochitl Tapia  
26 \_\_\_\_\_  
27 Type/Print Name

25   
26 \_\_\_\_\_  
27 Signature