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SAN MATEO COUNTY

MAR 26 2021

Clerk of the Superior Court

By

DEPUTY CLERK

Attorneys for Plaintiff Jasmine T. Thompson and the Class Members

FILED
SAN MATEO COUNTY

MAY 3 2021

Clerk of the Superior Court

By

DEPUTY CLERK

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF SAN MATEO

10 JASMINE T. THOMPSON, an individual, on
11 behalf of the State of California, as a private
12 attorney general, and on behalf of all others
13 similarly situated,

14 Plaintiff,

15 v.

16 DRAEGER'S SUPER MARKETS, a California
17 Corporation; and DOES 1-50, inclusive,

18 Defendants.
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Case No. 20-CIV-03222

JUDGMENT and
[Proposed] Order Granting Final Approval of
Class Action Settlement and Final Judgment

Date: April 20, 2021

Time: 2:00 p.m.

Dept.: 2

Judge: Hon. Marie S. Weiner

Complaint Filed: February 4, 2020

Trial Date: None Set



[PROPOSED] ORDER

This matter having come for hearing on April 20, 2021, regarding Plaintiffs' unopposed Motion for Order Granting Final Approval of Class Action Settlement on the terms set forth in the Joint Stipulation Settlement and Release of Class Action (the "Settlement" or "Settlement Agreement"). In conformity with California Rules of Court, rule 3.769, with due and adequate notice having been given to Class Members (as defined in the Settlement), and having considered the Settlement, all of the legal authorities and documents submitted in support thereof, all papers filed and proceedings had herein, all oral and written comments received regarding the Settlement, and having reviewed the record in this litigation, and good cause appearing, the Court **GRANTS** final approval of the Settlement and orders and makes the following findings and determinations and enters final judgment as follows:

1. All terms used in this order shall have the same meanings given as those terms are used and/or defined in the parties' Settlement Agreement and Plaintiffs' Motion for Order Granting Final Approval of Class Action Settlement. A copy of the Settlement is attached to the Declaration of Martin Sullivan in Support of Plaintiff's Motion for Preliminary Approval of Class Action Settlement as **Exhibit A** and is ~~made a part of this order.~~ *incorporated by reference*

2. The Court has personal jurisdiction over the Parties to this litigation and subject matter jurisdiction to approve this Settlement and all exhibits thereto.

3. For settlement purposes only, the Court finally certifies the Class, as defined in the Settlement Agreement and as follows:

Plaintiff and all other hourly non-exempt employees, excluding non-union workers, who are or were employed by Defendant Draeger's Super Markets from February 18, 2015 through May 31, 2020.

4. The Court deems this definition sufficient for the purpose of rule 3.765(a) of the California Rules of Court, and solely for the purpose of effectuating the Settlement.

5. The Court finds that an ascertainable class of 797 class members exists and a well-defined community of interest exists on the questions of law and fact involved because in the context of the Settlement: (i) all related matters, predominate over any individual questions; (ii) the claims of the Plaintiff are typical of claims of the Class Members; and (iii) in negotiating, entering into and

1 implementing the Settlement, Plaintiff and Class Counsel have fairly and adequately represented and
2 protected the interest of the Class Members.

3 6. The Court is satisfied that CPT Group, Inc., which functioned as the Settlement
4 Administrator, completed the distribution of the Class Notice to the Class in a manner that comports with
5 California Rule of Court 3.766. The Class Notice informed 798 prospective Class Members of the
6 Settlement terms, their rights to do nothing and receive their settlement share, their rights to submit a
7 request for exclusion, their rights to comment on or object to the Settlement, and their rights to appear at
8 the Final Approval and Fairness Hearing, and be heard regarding approval of the Settlement. Adequate
9 periods of time to respond and to act were provided by each of these procedures. No Class Members filed
10 written objections to the Settlement as part of this notice process, and no Class Members filed a written
11 statement of intention to appear at the Final Approval and Fairness Hearing, and ^{two} ~~only one~~ individuals—
12 ^{and Debbie A. Seuer} Clarence Fung_A—submitted requests for exclusion.

13 7. The Court requires that the envelope transmitting the settlement checks to the Class
14 Members shall bear the notation "YOUR CLASS ACTION SETTLEMENT CHECK IS ENCLOSED."

15 8. The Court hereby approves the terms set forth in the Settlement Agreement and finds that
16 the Settlement Agreement is, in all respects, fair, adequate, and reasonable, consistent and compliant with
17 all applicable requirements of the California Code of Civil Procedure, the California and United States
18 Constitutions, including the Due Process clauses, the California Rules of Court, and any other applicable
19 law, and in the best interests of each of the Parties and Class Members.

20 9. The Court directs the Parties to effectuate the Settlement Agreement according to its terms
21 and declares the Settlement Agreement to be binding on all Class Members.

22 10. The Court finds that the Settlement Agreement has been reached as a result of informed
23 and non-collusive arm's-length negotiations. The Court further finds that the Parties have conducted
24 extensive investigation and research, and their attorneys were able to reasonably evaluate their respective
25 positions.

26 11. The Court also finds that the Settlement now will avoid additional and potentially
27 substantial litigation costs, as well as delay and risks of the Parties were to continue to litigate the case.
28 Additionally, after considering the monetary recovery provided as part of the Settlement in light of the

1 challenges posed by continued litigation, and Court concludes that Class Counsel secured significant relief
2 for Class Members.

3 12. The Settlement Agreement is not an admission by Defendants, nor is this order a finding
4 of the validity of any allegations or of any wrongdoing by Defendants. Neither this order, the Settlement
5 Agreement, nor any document referred to herein, nor any action taken to carry out the Settlement
6 Agreement, may be construed as, or may be used as, an admission of any fault, wrongdoing, omission,
7 concession, or liability whatsoever by or against Defendants.

8 13. The Court appoints Plaintiff Jasmine T. Thompson ("Plaintiff") as Class Representative
9 and finds her to be adequate.

10 14. The Court appoints Martin Sullivan and Jonathan Melmed of Melmed Law Group P.C. as
11 Class Counsel and finds them to be adequate, experienced, and well-versed in class action litigation.

12 15. The terms of the Settlement Agreement, including the Gross Settlement Amount of
13 \$400,000 and the individual settlement shares, are fair, adequate, and reasonable to the Class and to each
14 Class Member, and the Courts grants final approval of the Settlement set forth in the Settlement
15 Agreement, subject to this order. The Court approves the following allocations, which fall within the
16 ranges stipulated by and through the Settlement Agreement:

17 a. The \$13,000 designated for payment to CPT Group, Inc., the Settlement
18 Administrator, is fair and reasonable. The Court grants final approval of it and orders the Parties
19 to make the payment to the Settlement Administrator in accordance with the Agreement.

20 b. The \$133,333.33 amount requested by Plaintiff and Class Counsel for the Class
21 Counsel's attorneys' fees is fair and reasonable in light of the benefit obtained for the Class. The
22 Court grants final approval of, awards, and orders the Class Counsel fees payment to be made in
23 accordance with the Settlement Agreement.

24 c. The Court awards \$10,555.09 in litigation costs, an amount which the Court finds
25 to be reflective of the reasonable costs incurred. The Court grants final approval of and orders the
26 Class Counsel litigation expenses payment in this amount to be made in accordance with the
27 Settlement Agreement.
28

d. The \$5,000 class representative payment requested by Plaintiff is fair and reasonable. The Court grants final approval of and orders the class representative payment to be made in accordance with the Settlement Agreement.

e. The Court approves of the \$10,000 allocation assigned for claims under the Labor Code Private Attorneys General Act of 2004, and orders 75% thereof (i.e., \$7,500) to be paid to the California Labor and Workforce Development Agency in accordance with the terms of the Settlement Agreement.

16. The Court orders the Parties to comply with and carry out all terms and provisions of the Settlement, to the extent that the terms thereunder do not contradict with this order, in which case the provisions of this order shall take precedence and supersede the Settlement.

17. Nothing in the Settlement or this order purports to extinguish or waive Defendants' rights to continue to oppose the merits of the claims in this Action or class treatment of these claims in this case if the Settlement fails to become final or effective, or in any other case without limitation.

18. All Class Members shall be bound by the Settlement and this order, including the release of claims as set forth in the Settlement Agreement.

19. The Parties shall bear their own respective attorneys' fees and costs except as otherwise provided in this order and the Settlement Agreement.

20. All checks mailed to the Class Members must be cashed within ninety (90) days after mailing.

21. The Court approved the *cy pres* beneficiary of Legal Aid at Work, a non-profit organization, for any uncashed checks, and finds that the *cy pres* beneficiary meets the requirements of Code of Civil Procedure section 384.

22. If (i) any of the Class Members are current employees of Defendants, (ii) the settlement check mailed to those employees is returned to the Settlement Administrator as undeliverable, and (iii) the Settlement Administrator is unable to locate a valid mailing address, the Settlement Administrator shall arrange with Defendants to have those distributions delivered to the employee at the place of employment.

23. Within 10 days of this order, the Settlement Administrator shall give notice of judgment to Settlement Class Members pursuant to California Rules of Court, rule 3.771(b) by posting a copy of said order and final judgment on its website.

24. The Court retains continuing jurisdiction over the Action and the Settlement, including jurisdiction pursuant to rule 3.769(h) of the California Rules of Court, solely for purposes of (a) enforcing the Settlement Agreement, (b) addressing settlement administration matters, and (c) addressing such post-judgment matters as may be appropriate under court rules or applicable law.

25. Plaintiff shall file with the Court a report regarding the status of distribution within one hundred and twenty (120) days after all funds have been distributed.

26. This final judgment is intended to be a final disposition of the above-captioned action in its entirety and is intended to be immediately appealable. This final judgment resolves and extinguishes all claims released by the Settlement Agreement against Defendants.

27. The Court hereby sets a hearing date of Tuesday, October 5, 2021 at 2:00 p.m. ~~perman~~ for a hearing on the final accounting and distribution of the settlement funds.

IT IS SO ORDERED.

28. Plaintiff shall file and serve Notice of Entry of Judgment ~~under~~ upon counsel for the parties and to LWDA.
Dated: May 3, 2021

M. Weiner
Hon. Marie S. Weiner
Judge of the Superior Court, County of San Mateo