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**FILED**  
**ALAMEDA COUNTY**

NOV 16 2023

CLERK OF THE SUPERIOR COURT

By 

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**COUNTY OF ALAMEDA**

CARLOS AGUILAR, MARIA ALCAZAR,  
LIZVETTE SALGADO and ELPIDIA  
ALCAZAR individually, and on behalf of all  
others similarly situated,

Plaintiffs,

vs.

FARMGIRL FLOWERS INC., a California  
Corporation; CHRISTINA STEMBEL; DOES  
1 through 50, inclusive,

Defendants.

) Case No. RG21107981

) Assigned for All Purposes To:  
) Judge: Evelio Grillo  
) Dept: 21

) **REVISED ~~PROPOSED~~ ORDER**  
) **GRANTING PRELIMINARY APPROVAL**  
) **OF CLASS ACTION SETTLEMENT AND**  
) **CONDITIONAL CERTIFICATION OF**  
) **THE PROPOSED SETTLEMENT CLASS**

) Action Filed: August 5, 2021

1 On August 5, 2021, Plaintiffs Carlos Aguilar, Maria Alcazar, Lizvette Salgado and Elpidia  
2 Alcazar (“Plaintiffs”) filed the initial class-action complaint in the Superior Court of Alameda  
3 County, styled *Carlos Aguilar et. al. v. Farmgirl Flowers, Inc.*, Case No. Case No. RG21107981,  
4 on behalf of himself and all others similarly situated current and former employees of Defendant  
5 Farmgirl Flowers, Inc. (“Defendant”). The Complaint asserted claims under the California Labor  
6 Code for failure to pay wages for all hours worked (including overtime and at the correct rate),  
7 provide compliant meal periods and rest breaks, reimburse for business expenses, comply with Cal-  
8 WARN regarding giving 60 days’ notice, provide accurate itemized wage statements, pay all wages  
9 at the time employment ends and a derivative claim under the California Unfair Competition Law.  
10 On October 12, 2021, Plaintiffs filed a First Amended Complaint to add a cause of action under  
11 California’s Private Attorneys General Act (“PAGA”), Cal. Labor Code section 2699, *et seq.*

12 After extensive discovery, including the production of time and payroll records, policies  
13 and procedures, written discovery and depositions of some of the Plaintiffs, the Parties participated  
14 in private mediation before Lou Marlin on March 31, 2023. The Parties reached a settlement, the  
15 terms of which are embodied in the Second Amended Stipulation and Settlement of Class Action  
16 Claims the “Agreement” or “Settlement Agreement”).

17 On October 27, 2023, the hearing on the Motion for Preliminary Approval of Class Action  
18 Settlement and Conditional Certification of the Proposed Settlement Class (the “Preliminary  
19 Approval Motion”) was held before this Court. The Court, having reviewed the Memorandum of  
20 Points and Authorities in Support of the Preliminary Approval Motion, all other papers and  
21 documents presented, having heard the arguments of counsel, and having considered the matter,  
22 and making findings and rulings at the hearing:

23 **IT IS HEREBY ORDERED:**

24 1. The Court hereby GRANTS preliminary approval of the terms contained in the  
25 Agreement. The Court preliminarily finds that the terms of the Agreement appear to be  
26 presumptively fair (*Dunk v. Ford Motor Co.*, 48 Cal. App. 4th 1794, 1802 (1996)), and are within  
27 the “ballpark” of reasonableness based on an independent and objective review of the well-  
28 recognized factors in evaluating whether a class-action settlement is fair, adequate and reasonable.

1 See e.g., *Kullar v. Foot Locker Retail, Inc.*, 168 Cal.App.4th 116, 128 (2008) (citing *Dunk, supra*,  
2 48 Cal.App.4th at 1801); *Clark v. American Residential Services, LLC*, 175 Cal.App.4th 785, 799  
3 (2009); *Munoz v. BCI Coca-Cola Bottling Company of Los Angeles*, 186 Cal.App.4th 399, 407  
4 (2010); *In re Cellphone Fee Terminations Cases*, 186 Cal.App.4th 1380, 1389 (2010).

5         2.         It appears to the Court on a preliminary basis that: (1) the settlement amount is fair  
6 and reasonable to the Settlement Class when balanced against the probable outcome of further  
7 litigation relating to class certification, trial, and potential appeals; (2) significant formal and  
8 informal discovery, investigation, research, and litigation have been conducted such that counsel  
9 for the Parties are able to reasonably evaluate their respective positions at this time; (3) settlement  
10 at this time will avoid substantial costs, delay, and risks that would be presented by the further  
11 pursuit of litigation; and (4) the proposed settlement has been reached as the result of intensive,  
12 serious, and non-collusive arms'-length negotiations between the Parties.

13         3.         The Court hereby GRANTS conditional certification of the provisional class,  
14 pursuant to California Code of Civil Procedure § 382, in accordance with the Agreement for the  
15 purpose of this class settlement only. The Settlement Class is defined as all current and former  
16 hourly non-exempt employees of Defendant in California at any time from August 5, 2017 through  
17 the date of preliminary approval of the settlement, excluding any individuals who have previously  
18 signed separation agreements with general releases.

19         4.         The Court hereby GRANTS conditional approval of the PAGA Release. The  
20 Aggrieved Employees are defined as all current and former hourly non-exempt employees of  
21 Defendant in California at any time from August 10, 2020 through the date of preliminary approval  
22 of the settlement.

23         5.         The Court hereby authorizes the retention of CPT Group as Settlement  
24 Administrator for the purpose of this settlement.

25         6.         The Court hereby conditionally finds that Ian M. Silvers of Bisnar|Chase LLP and  
26 Richard C. Alpers of Alpers Law Group, Inc. ("Class Counsel") may act as lead counsel for the  
27 Settlement Class, and that Plaintiffs may act as Class Representatives for the Settlement Class.

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1           7.       The Court hereby APPROVES the Notice of Class Action Settlement (the "Notice")  
2 attached hereto as **EXHIBIT 1**. The Court finds that the Notice constitutes the best notice  
3 practicable under the circumstances and is in full compliance with the laws of the State of  
4 California, to the extent applicable, the United States Constitution, and the requirements of due  
5 process. The Court further finds that the Notice appears to fully and accurately inform the  
6 Settlement Class Members of all material elements of the proposed Agreement, of the Settlement  
7 Class Members' right to be excluded from the settlement, and of each Settlement Class member's  
8 right and opportunity to object to the Agreement. The Notice shall be mailed via first class mail to  
9 the most recent known address of each Settlement Class member within ten (10) calendar days  
10 following the receipt of Settlement Class Member information from Defendant.

11           8.       The Court further ORDERS that Class Counsel shall file the Motion for Final  
12 Approval of the Class-Action Settlement and the Motion for Final Approval of Attorneys' Fees,  
13 Costs, and Class Representative Incentive Awards, with the appropriate declarations and  
14 supporting evidence, by sixteen (16) court days prior to the Final Approval Hearing.

15           9.       The Court further ORDERS that each Settlement Class member who does not  
16 request exclusion from the settlement, shall be given a full opportunity to object to the Agreement  
17 and to participate at the Final Approval Hearing at which the court will address final approval of  
18 the settlement including attorneys' fees, costs, administration costs and class representative  
19 enhancement awards, which the Court sets to commence on February 23\_, 2024 at 9:00 a.m. in  
20 Department 21 of the Superior Court of the State of California, County of Alameda, 1221 Oak  
21 Street, Oakland, CA 94612.

22           10.      Any Settlement Class member seeking to object to the Agreement must mail or fax  
23 his or her objection to the Settlement Administrator no later than forty-five (45) calendar days after  
24 the mailing of the Notice and accompanying forms to Settlement Class Members, unless the Court  
25 requires a longer period, in which case the Court-ordered objection period will apply. If the 45th  
26 day falls on a Sunday or federal holiday, the time to object to the Settlement Agreement will be  
27 extended to the next day on which the U.S. Postal Service is open. Except that should the  
28 Response Deadline (or any extension(s) thereof) fall on a Saturday and regular U.S. Mail service is

1 in operation that day, then no further extension pursuant to this paragraph shall apply to these  
2 specific deadlines. Under no circumstances shall the objection deadline be extended for any reason  
3 other than the above, including non-receipt of the Notice. Any Settlement Class member who fails  
4 to serve a timely written objection shall be foreclosed from objecting to the Settlement Agreement,  
5 unless otherwise ordered by the Court.

6 11. Following Final Approval of the Settlement, the Settlement Class members will be  
7 paid an Individual Settlement Payment as calculated under Section 3.06(h) of the Agreement,  
8 unless the Settlement Class member submits an opt-out form within 45 calendar days from the date  
9 the Settlement Administrator mails the Notice and accompanying forms to Settlement Class  
10 Members.

11 12. The Court further ORDERS that, pending further order of this Court, all proceedings  
12 in this action, except those contemplated herein and in the Agreement, are stayed.

13 13. If the Court grants final approval, Settlement Class Members (who have not opted  
14 out) and their successors shall conclusively be deemed to have given a release, as set forth in the  
15 Agreement and Notice, against the released parties, and all such Settlement Class Members and  
16 their successors shall be permanently enjoined and forever barred from asserting any released  
17 claims against the released parties. Specifically, Settlement Class Members shall release Defendant  
18 and the Released Parties of the following:

19 All claims under federal, state or local law, that were asserted or could have been asserted  
20 based on the facts, claims, and theories expressly pleaded in the First Amended Complaint  
21 or any prior Complaints; the facts, claims or theories expressly raised in Plaintiff's notice to  
22 the LWDA dated July 27, 2021, regarding Defendant; and/or any facts, claims or theories  
23 arising under any applicable IWC Wage Orders, including claims for: (1) failure to pay  
24 wages for all hours worked; (2) failure to pay overtime wages, (3) failure to provide  
25 mandatory meal and rest breaks, (4) unreimbursed business expenses, (5) violation of the  
26 California WARN Act, (6) failure to provide accurate wage statements, (7) failure to pay  
27 waiting time penalties, and (8) violations of the Unfair Competition Law, Calif. Bus. &  
28 Prof. Code §§17200 et. seq. ("UCL") ("Released Class Claims").

14. Further if the Court grants final approval, Plaintiffs, on behalf of themselves and as  
agents and proxies on behalf of the LWDA, shall conclusively be deemed to have given a release,  
as set forth in the Amended Agreement and Notice, against the released parties. Specifically, the

1 following shall be released:

2 All claims and/or causes of action under the PAGA that were asserted or could have been  
3 asserted based upon the facts, claims and theories expressly pleaded in the First Amended  
4 Complaint and/or any prior Complaints, and/or any facts, claims, or theories set forth in the  
5 LWDA Notice against Defendant dated July 27, 2021, including but not limited to, claims  
6 for civil penalties for alleged Labor Code violations under the PAGA, including the alleged  
7 (1) failure to pay wages for all hours worked; (2) failure to pay overtime wages, (3) failure  
8 to provide mandatory meal and rest breaks, (4) unreimbursed business expenses, (5)  
9 violation of the California WARN Act, (6) failure to provide accurate wage statements, and  
10 (7) failure to pay waiting time penalties (“Released PAGA Claims”).

11 15. It is the intent of the Parties that the judgment entered by the Court approving the  
12 releases set forth in the Parties’ Settlement Agreement upon final approval of the Settlement shall  
13 have *res judicata*, collateral estoppel, and all other preclusive effect in all pending and future  
14 claims, lawsuits or proceedings and be final and binding upon Plaintiffs, the LWDA (regarding the  
15 Released PAGA Claims only), and all Settlement Class Members, excluding only those who have  
16 expressly opted out of the settlement by submitting a valid Request for Exclusion..

17 **IT IS SO ORDERED.**

18 Dated: November 16, 2023, 2023



HON. EVILIO GRILLO

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