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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

JUL 28 2022

BY Jessica Morales
JESSICA MORALES, DEPUTY

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO**

Stephen Noer, an individual,

Plaintiff,
vs.
Five Star Food Containers, Inc., a California
corporation; **Larry Luc**, an individual; and **Does**
1-10, inclusive,

Defendants.

CASE NO. CIVSB2116131
[Assigned for all purposes to Honorable David
Cohn, Department S26]

CLASS ACTION
**[PROPOSED] ORDER GRANTING
FINAL APPROVAL OF CLASS ACTION
SETTLEMENT AND FINAL JUDGMENT**

*[Notice of Motion and Motion, Declarations of
Elliot J. Siegel, Brent Boos, Stephen Noer, and
Laura Singh filed concurrently]*

Date: July 28, 2022 [Reserved]
Time: 10:00 a.m.
Dept.: S26

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[PROPOSED] ORDER

This matter having come for hearing on July 28, 2022 regarding Plaintiffs' unopposed Motion for Order Granting Final Approval of Class Action Settlement on the terms set forth in the Joint Stipulation of Settlement and Release of Class Action (the "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 Agreement), and having considered the Settlement Agreement, 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 Agreement, and having reviewed the record in this litigation, and good cause appearing, the Court **GRANTS** final approval of the Settlement Agreement 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 Agreement is attached to the Declaration of Elliot J. Siegel in Support of Plaintiffs' Motion for Preliminary Approval of Class Action Settlement as **Exhibit 1** and is made a part of this order.

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

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

All hourly, non-exempt employees employed by Defendants who worked at least one shift in California from June 1, 2017 to April 27, 2022.

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 39 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

1 of the Plaintiff are typical of claims of the Class Members; and (iii) in negotiating, entering into and
2 implementing the Settlement, Plaintiff and Class Counsel have fairly and adequately represented
3 and protected the interest of the Class Members.

4 6. The Court is satisfied that CPT Group, Inc., which functioned as the Settlement
5 Administrator, completed the distribution of Class Notice to the Class in a manner that comports
6 with California Rule of Court 3.766. The Class Notice informed the prospective Class Members of
7 the Settlement terms, their rights to do nothing and receive their settlement share, their rights to
8 submit a request for exclusion, their rights to comment on or object to the Settlement, and their
9 rights to appear at the Final Approval and Fairness Hearing, and be heard regarding approval of the
10 Settlement. Adequate periods of time to respond and to act were provided by each of these
11 procedures. Zero Class Members filed written objections to the Settlement as part of this notice
12 process, and zero Class Members filed a written statement of intention to appear at the Final
13 Approval and Fairness Hearing, and zero Class Members submitted requests for exclusion.

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

18 8. The Court also finds that the Settlement now will avoid additional and potentially
19 substantial litigation costs, as well as the delay and risks of the Parties if they were to continue to
20 litigate the case. Additionally, after considering the monetary recovery provided as part of the
21 Settlement in light of the challenges posed by continued litigation, and Court concludes that Class
22 Counsel secured significant relief for Class Members.

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

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1 10. The Court appoints Plaintiff Stephen Noer as Class Representative and finds him to
2 be adequate.

3 11. The Court appoints Elliot J. Siegel and Julian Burns King of King & Siegel LLP, as
4 Class Counsel, and finds each of them to be adequate, experienced, and well-versed in class action
5 litigation.

6 12. The terms of the Settlement Agreement, including the Maximum Settlement
7 Amount of \$500,000 and the allocation for determining Individual Settlement Payments, are fair,
8 adequate, and reasonable to the Class and to each Class Member, and the Court grants final approval
9 of the Settlement set forth in the Settlement Agreement, subject to this Order.

10 13. The Court further approves the following distributions from the Maximum
11 Settlement Amount, which fall within the ranges stipulated by and through the Settlement
12 Agreement:

13 a. The amount of \$11,000 designated for payment to the Settlement
14 Administrator is fair and reasonable. The Court grants final approval of it and orders the
15 Parties to make the payment to the Settlement Administrator in accordance with the
16 Settlement Agreement.

17 b. The \$166,666.67 amount, representing one-third of the Maximum
18 Settlement Amount, requested by Plaintiff and Class Counsel for the Class Counsel's
19 attorneys' fees is fair and reasonable in light of the benefit obtained for the Class. The Court
20 grants final approval of, awards, and orders the Class Counsel fees payment to be paid in
21 accordance with the Settlement Agreement.

22 c. The Court awards Class Counsel \$7,961.71 in reimbursement for reasonably
23 incurred costs. The Court grants final approval of, and orders the Class Counsel litigation
24 expenses payment in this amount to be paid in accordance with the Settlement Agreement.

25 d. The \$5,000 class representative payment requested to Plaintiff Stephen
26 Noer is fair and reasonable. The Court grants final approval of, and orders the class
27 representative payment to be paid in accordance with the Settlement Agreement.

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1 e. Plaintiff's Individual Claims Payment is fair and reasonable. The Court
2 grants final approval of, and orders Plaintiff's Individual Claims Payment of \$25,000 to be
3 paid in accordance with the Settlement Agreement.

4 f. The Court approves of the \$50,000 allocation assigned for claims under the
5 Labor Code Private Attorneys General Act of 2004, and orders 75% thereof (*i.e.*, \$37,500)
6 to be paid to the California Labor and Workforce Development Agency in accordance with
7 the terms of the Settlement Agreement.

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

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

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

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

19 18. All checks mailed to the Class Members must be cashed within one hundred and
20 twenty (120) days after mailing.

21 19. All uncashed checks will be escheated to the Controller of the State of California to
22 be held pursuant to the Unclaimed Property Law, California Civil Code § 1500, *et seq.*, for the
23 benefit of those Class Members who did not cash their checks until such time that they claim their
24 property.

25 20. No later than 10 days of this order, the Settlement Administrator shall give notice of
26 judgment to Class Members pursuant to California Rules of Court, rule 3.771(b) by posting a copy
27 of this Order and Final Judgment on its website assigned to this matter.
28

1 21. The Court retains continuing jurisdiction over the Action and the Settlement,
2 including jurisdiction pursuant to rule 3.769(h) of the California Rules of Court and Code of Civil
3 Procedure section 664.6, solely for purposes of (a) enforcing the Settlement Agreement,
4 (b) addressing settlement administration matters, and (c) addressing such post-judgment matters
5 as may be appropriate under court rules or applicable law.

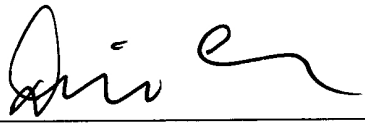
6 22. Plaintiff shall file with the Court a report regarding the status of distribution no later
7 than fifty (50) days after all funds have been distributed.

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

11 24. The Court hereby sets a hearing date of 7/25/23 at
12 9:00 ~~pm~~/am for a hearing on the final accounting and distribution of the settlement funds.

13
14 **IT IS SO ORDERED, ADJUDGED, AND DECREED.**

15
16 DATED: 7/28/23

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16 _____
17 Hon. David Cohn
18 San Bernardino County Superior Court Judge