

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SOLANO**

CANDIDA ARACELY TORRES

Case No. **FCS054783**

vs.

MINUTE ORDER – CIVIL

PRIMAL PET FOODS, INC.

Date: **04-NOV-2021**

Judge: **WENDY G. GETTY**

APPEARANCES:

**JUDGE - WENDY G. GETTY
COURT REPORTER - STACIE CURTIS
COURTROOM CLERK - ARACELI GARCIA**

On Calendar for: **MOTION**

Minutes:

CASE IS CALLED.

ATTORNEY DAVID BIBIYAN APPEARS VIA COURTCALL ON BEHALF OF PLAINTIFF.

ATTORNEY MARINA GRUBER APPEARS VIA ZOOM ON BEHALF OF DEFENDANT.

MS. SOTO APPEARS IN COURT AS AN OBSERVER, PROVIDED WITH THE COURT'S TENTATIVE RULING AND INDICATES SHE HAS NO OBJECTIONS.

THE PARTIES REACHED A SETTLEMENT.

ATTORNEYS HAVE REVIEWED THE TENTATIVE RULING AND HAVE NO OBJECTION.

THE COURT ADOPTS THE TENTATIVE RULING OF NOVEMBER 4, 2021, AS THE ORDER OF THE COURT AS FOLLOWS:

Motion by Plaintiffs for Final Approval of Class and Representative Action Settlement

TENTATIVE RULING

Parties and any interested or objecting persons to appear.

Pending any objections at the hearing, the Court approves the final settlement with minor revision.

The court finds that the settlement amount of \$1,805,388.31 is fair, reasonable and adequate. Of 602 potential class members, only two opted out of the proposed settlement and none have objected.¹ The settlement equitably distributes a settlement fund based upon weeks worked by the class members and results in settlements for class members that range from \$1812.43 to \$10,625.27.

The court approves the payment of the related PAGA claims, finds that the \$100,000 is reasonable and not a sham and that distribution of \$75,000 to the LWDA and \$25,000 to the representative group is consistent with statute.

The court approves the payment of \$8750 to the settlement administrator.

The court approves enhancement awards of \$7500 to Plaintiff Candida Aracely Torres and \$5000 to Plaintiff Juan Villareal-Romero as reasonable.

The court approves payment of costs of \$18,071.58 as set forth in the motion.

The court approves payment of attorneys' fees representing one-third of the settlement. The sum of \$601,796.10 is reasonable given the complexity and outcome of the litigation, the efforts and hours actually expended by counsel, the risk assumed by counsel and is consistent with standard contingent fee arrangements in other less complex matters. The fee is also consistent with a reasonable Lodestar with a modest enhancement and the court understands that additional hours will be expended by Plaintiffs' counsel to finalize the matter. Because the sum is reasonable, the court does not engage in a specific analysis regarding the hourly rates claimed or analyze the reasonableness of the 800 hours on an itemized basis except to note that the rates claimed are generally appropriate to the market place based upon the nature of the work and 800 hours appears a reasonable number of hours to have expended on this litigation having undertaken the described activities. The court also appreciates the risk associated with this kind of litigation in general including potential competing claims given the

MOTION

proliferation of wage and hour cases (as well as the risk with this case specifically) and experienced the professionalism with which Plaintiffs' counsel performed their duties.

The settlement does not appear to include provisions for a reserve. Occasionally the costs of the administrator will need to be adjusted due to unforeseen circumstances. Should any additional unanticipated expenses of the administrator be realized, the unpaid residue will be utilized as a first source of repayment. If the unpaid residue is insufficient to meet the needs, the additional unanticipated fees shall be borne by Plaintiffs' counsel directly from the fee award to Plaintiffs' counsel.

With respect to any final unpaid residue, the suggested charity is an appropriate type of charity but does not appear to directly work with the persons in the class and is not local to the venue. The court suggests that unpaid residue be distributed to a legal aid non-profit with direct connections to Solano County who provides services to the population represented by the class or distributed to the named charity with direction that it be used to serve persons in Solano County.

PLAINTIFF IDENTIFIES LEGAL SERVICES OF NORTHERN CALIFORNIA, AS THE CHARITY FOR ANY UNPAID RESIDUE. PLAINTIFF SHALL INFORM THE COURT BY FILING A DECLARATION WITH THE FINAL CLOSE OUT AMOUNT.

PLAINTIFF INFORMS THAT SIX NOTICES WERE RETURNED AS UNDELIVERABLE.

PARTIES DIRECTED TO MEET & CONFER SINCE DEFENDANT DISPUTES LIABILITY, SHOULD THE COURT ISSUE A JUDGMENT OR SHOULD THE CASE BE DISMISSED AS THE FINAL DISPOSITION.

PLAINTIFF SHALL FILE A DECLARATION WITH THE FINAL FIGURES AND ATTORNEY FEES, ETC.

THE COURT SETS DISMISSAL HEARING ON AUGUST 4, 2022 AT 9:00 A.M., DEPT. 8.

NOTICE WAIVED.

TENTATIVE RULING (SEE COURT FOOTNOTE BELOW)

1 Counsel does not indicate, however, how many notices were returned as undeliverable.