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FILED  
SUPERIOR COURT  
Brandon E. Riley, Clerk

Danielle Jeandebien  
July 17, 2020

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SAN JOAQUIN  
(UNLIMITED JURISDICTION)

OCTAVIO FLORES-AYON,

Plaintiff,

vs.

VAN EXEL DAIRY, a partnership,  
CAROLYN VAN EXEL, an individual,  
HENRY P. VAN EXEL, an individual,  
AND DOES 1-20, INCLUSIVE.

Defendants.

Case No.: STK-CV-UOE-2017-0007343

[PROPOSED] ORDER GRANTING  
PLAINTIFFS' UNOPPOSED MOTION  
FOR CLASS CERTIFICATION AND  
PRELIMINARY APPROVAL OF CLASS  
ACTION SETTLEMENT

Date: July 16, 2020  
Time: 8:30 a.m.  
Dept: 11B  
Judge: Hon. Roger Ross  
Trial: Not set

The above-captioned matter came on for hearing before the Court on July 16, 2020, on Plaintiff's Unopposed Motion For Provisional Class Certification And Approval Of Class Action Settlement. The Parties have entered into a class settlement, attached as Exhibit 1 to the Declaration of Cynthia L. Rice (the "Settlement") which, if approved, would resolve this class

[PROPOSED] ORDER

BY FAX

JUL 16 2020

1 action lawsuit (the "Action").

2 Having read and considered the written motion, and considered factors including the  
3 strength of Plaintiffs' case, the risk, expense, complexity and likely duration of further litigation,  
4 the risk of maintaining class action status through trial, the amount offered in settlement, the  
5 extent of discovery completed and the stage of the proceedings, the experience and views of  
6 counsel, and the lack of reaction of the class members at this time to the proposed settlement.  
7 (See *Clark v. American Residential Services LLC* (2009) 175 Cal.App.4th 785, 799.) Settlement  
8 appears to be reasonable in light of other recent class settlements for truck drivers in California.  
9 Therefore;

10 IT IS HEREBY ORDERED THAT:

11 1. Plaintiff's Unopposed Motion for Provisional Class Certification and Preliminary  
12 Approval of Class Action Settlement is GRANTED.

13 a. The Court finds that provisional class certification is appropriate because (a) the  
14 proposed class is ascertainable and sufficiently numerous; (b) a well-defined  
15 community of interest exists; and (c) there are substantial benefits from  
16 certification that render proceeding on a class-wide basis superior to any  
17 alternatives.

18 b. Furthermore, the Court finds that (a) the terms of the Settlement appear to be fair  
19 and reasonable to the Class when balanced against the probable outcome of further  
20 litigation relating to class certification, liability and damage issues, and potential  
21 appeals; (b) Class Counsel is experienced in wage and hour class action litigation;  
22 (c) sufficient investigation was undertaken and sufficient information was  
23 exchanged, enabling Plaintiff and Defendants to reasonably evaluate one another's  
24 positions; (d) approving the Settlement will avoid substantial costs, delay, and  
25 risks that would be presented by further litigation; and (e) the terms of the  
26 Settlement were the result of intensive, serious, and non-collusive negotiations  
27 between Plaintiff and Defendants, including private mediation.

28 c. Accordingly, the Court preliminarily finds that the Settlement falls within the

range of possible approval and therefore meets the requirements for preliminary approval.

2. The Court conditionally certifies the following Class for the purpose of the Settlement only:

All individuals employed as non-exempt laborers (including milkers and individuals who worked outside the dairy barns with the cows, or, for example, doing maintenance and repair work, etc.) employed by Defendants during the four years preceding the filing of the Complaint through March 16, 2019 (or from July 17, 2013 through March 16, 2019 referred to hereafter as the "Class Time Period".)

3. The Court conditionally appoints Cynthia L. Rice as Class Counsel.
4. The Court conditionally appoints Phoenix Class Action Administrative Solutions to serve as the settlement administrator and to carry out all duties and responsibilities of the Claims Administrator as specified in the Settlement.
5. The Court approves the method of disseminating notice to the members of the Class in English and Spanish, as set forth in the Settlement, and approves the form and content of the Class Notice attached to the Proposed Class Distribution Plan as Exhibit B. The Court finds that the proposed form and content of the Class Notice is reasonably clear and should be reasonably understandable to members of the Plaintiff Class. The Court finds that the proposed method of notice provided in the Settlement constitutes the best notice practicable under the circumstances, and will provide valid, due, and sufficient notice to the Plaintiff Class in full compliance with the requirements of applicable law and is the only notice to the Plaintiff Class of the Settlement that is required prior to final approval.
6. The Court finds grounds for an enhancement payment of \$6,000.00 to the class representative, OCTAVIO FLORES-AYON, in addition to any payments due as a member of the class.
7. The Court finds that the request for attorneys' fees and costs to be paid to Class Counsel of \$36,500.00 plus an additional \$17,500.00 before the residue is distributed, is reasonable.
8. No later than 5 days from the date of this Order, Defendant's counsel shall provide the

1 Claims Administrator and Plaintiff's counsel with a list of all members of the Plaintiff  
2 Class, their last known addresses, telephone numbers, and social security or individual  
3 taxpayer identification numbers, and whether they are former employees. Plaintiff's  
4 counsel shall supplement the information with any more recent contact information  
5 available for members of the Plaintiff Class. The Claims Administrator shall be  
6 responsible for preparing, printing, and mailing to members of the Plaintiff Class the Class  
7 Notice. A Spanish language translation (prepared by the Claims Administrator and  
8 approved by Plaintiff's counsel) of all materials mailed to the Plaintiff Class shall be  
9 included as part of the same mailing.

10 9. Within thirty (30) days from the date of this Order, the Claims Administrator shall send a  
11 copy of the Class Notice to the Plaintiff Class via First Class regular U.S. mail, postage  
12 prepaid, using the most current mailing address information available. The date of the  
13 original mailing will be the Notice Date. For any Class Notice returned to the Claims  
14 Administrator as non-deliverable within thirty (30) days of the Notice Date, the Claims  
15 Administrator shall make prompt and reasonable efforts to locate the person involved,  
16 using appropriate search methods. If new address information is obtained, the Claims  
17 Administrator shall promptly re-mail the Class Notice to the addressee via First Class  
18 regular U.S. mail, postage prepaid, using the new address. If the Claims Administrator is  
19 unable to obtain new address information with regard to any Class Notice returned as non-  
20 deliverable with forty-five (45) days following the Notice Date, or if a Class Notice is  
21 returned as non-deliverable more than thirty (30) days following the Notice Date, the  
22 Claims Administrator shall be deemed to have satisfied its obligation to provide the Class  
23 Notice to the affected member of the Plaintiff Class.

24 10. The Court will hold a Final Approval Hearing on December 17, 2020 at 9:00 a.m. to  
25 determine whether to grant final approval of the Settlement, whether Final Judgment  
26 should be entered dismissing the Action with prejudice, and whether Plaintiff's counsel's  
27 application for an award of attorneys' fees and costs and Plaintiff's incentive award  
28 pursuant to the Settlement should be finally approved.

BY FAX

- 1 11. The Parties shall file any motions in support of final approval of the Settlement no later  
2 than November 19, 2020.  
3 12. Any objections to final approval of the Settlement or Plaintiff's counsel's fee application  
4 shall be filed no later than December 3, 2020.  
5 13. The Parties shall file any reply papers in support of final approval or Plaintiff's counsel's  
6 fee application no later than December 10, 2020.  
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8 IT IS SO ORDERED.

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10 Date Jul 17, 2020 01:31 PM

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Hon. Roger Ross