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9 Attorneys for Plaintiff

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 FOR THE COUNTY OF TULARE

12 MARIA DEL CARMEN ESPINOZA, an  
13 individual,

14 Plaintiff,

15 vs.

16 JUAN C. GUTIERREZ dba J.C. GUTIERREZ  
17 LABOR SERVICE, an individual; VISALIA  
CITRUS PACKING GROUP INC., a California  
18 corporation; VCPG LAND, LLC, a California  
19 Limited Liability Company; and DOES 1  
through 100,

20 Defendants.  
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ELECTRONICALLY FILED  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF TULARE

09/13/2022

STEPHANIE CAMERON, CLERK  
Nay Saelee, Deputy

Case No.: VCU286326

[Assigned for all purposes to the Hon.  
Bret Hillman, Dept. 07]

**[PROPOSED] ORDER GRANTING  
PRELIMINARY APPROVAL OF CLASS  
ACTION SETTLEMENT**

Date: September 13, 2022  
Time: 8:30 a.m.  
Dept.: 07

Complaint Filed: March 3, 2021  
Trial Date: None Set

1           The unopposed motion of Plaintiff Maria Del Carmen Espinoza ("Plaintiff") for  
2 Preliminary Approval of Class Action Settlement came on regularly for hearing before this Court  
3 on September 13, 2022, at 8:30 a.m. The Court, having considered the proposed Joint Stipulation  
4 of Class Action Settlement (the "Settlement"), attached as Exhibit A to the Declaration of Daniel  
5 J. Brown filed concurrently herewith ("Brown Decl."); having considered Plaintiff's Motion for  
6 Preliminary Approval of Class Action Settlement, Memorandum of Points and Authorities in  
7 support thereof, and supporting declarations filed therewith; and good cause appearing, HEREBY  
8 ORDERS THE FOLLOWING:

9           1.       The Court GRANTS preliminary approval of the class action settlement as set  
10 forth in the Settlement and finds its terms to be within the range of reasonableness of a settlement  
11 that ultimately could be granted approval by the Court at a Final Fairness Hearing. For purposes  
12 of the Settlement, the Court finds that the proposed Settlement Class is ascertainable and that  
13 there is a sufficiently well-defined community of interest among the members of the Settlement  
14 Class in questions of law and fact. Therefore, for settlement purposes only, the Court grants  
15 conditional certification of the following Settlement Class:

16                       All current and former non-exempt employees of Defendant Juan C.  
17                       Gutierrez dba J.C. Gutierrez Labor Service in California who were  
18                       subject to Wage Order 14 and worked at least one day performing  
19                       work for Defendant Visalia Citrus Packing Group, Inc., at any time  
                          during the period of March 23, 2017, to April 18, 2022 ("Class  
                          Period") ("Settlement Class" or "Settlement Class Members").

20           2.       For purposes of the Settlement, the Court designates named Plaintiff Maria Del  
21 Carmen Espinoza as Class Representative, and Daniel J. Brown of Stansbury Brown Law, PC  
22 and Rueben Nathan of Nathan and Associates, APC as Class Counsel.

23           3.       The Court designates Phoenix Settlement Administrators as the third-party  
24 Settlement Administrator for mailing notices.

25           5.       The Court approves, as to form and content, the Notice of Class Action Settlement  
26 ("Class Notice"), Request for Exclusion Form, and Objection Form, attached as Exhibits B, C,  
27 and D, respectively to the Declaration of Daniel J. Brown.

28           6.       The Court finds that the form of notice to the Settlement Class regarding the

1 pendency of the action and of the Settlement, and the methods of giving notice to members of the  
2 Settlement Class constitute the best notice practicable under the circumstances, and constitute  
3 valid, due, and sufficient notice to all members of the Settlement Class. The form and method of  
4 giving notice complies fully with the requirements of California Code of Civil Procedure section  
5 382, California Civil Code section 1781, California Rules of Court 3.766 and 3.769, the California  
6 and United States Constitutions, and other applicable law.

7 7. The Court further approves the procedures for Class Members to opt out of or  
8 object to the Settlement, as set forth in the Class Notice.

9 8. The procedures and requirements for filing objections in connection with the Final  
10 Fairness Hearing are intended to ensure the efficient administration of justice and the orderly  
11 presentation of any Class Member's objection to the Settlement, in accordance with the due  
12 process rights of all Class Members.

13 9. The Court directs the Settlement Administrator to mail the Class Notice, Request  
14 for Exclusion Form, and Objection Form to the members of the Settlement Class, in English and  
15 Spanish, in accordance with the terms of the Settlement. The Court directs the Settlement  
16 Administrator to carry out all duties as required by the Settlement.

17 10. The Class Notice Packet shall provide at least 60 calendar days' notice for Class  
18 Members to opt out of, or object to, the Settlement. Any Request for Exclusion or Objection shall  
19 be submitted directly to the Settlement Administrator and not filed with the Court. Upon receipt  
20 of any Requests for Exclusion or Objections, the Settlement Administrator shall forward copies  
21 of all Requests for Exclusion or Objections to counsel for all Parties. The Settlement  
22 Administrator shall file a declaration concurrently with the filing of the Motion for Final Approval  
23 of Class Action Settlement which authenticates a copy of every Request for Exclusion and  
24 Objection received by the Settlement Administrator.

25 11. The Final Fairness Hearing on the question of whether the Settlement should be  
26 finally approved as fair, reasonable, and adequate is scheduled in Department 7 of this Court,  
27 located at 221 S. Mooney Blvd., Visalia, California 93291, on 3/14/23, 2022 at 8:30 a.m.

28 12. At the Final Fairness Hearing, the Court will consider: (a) whether the Settlement

1 should be finally approved as fair, reasonable, and adequate for the Settlement Class; (b) whether  
2 a judgment granting final approval of the Settlement should be entered; and (c) whether Plaintiff's  
3 application for reasonable attorneys' fees, reimbursement of litigation expenses, Enhancement  
4 Payment to Plaintiff, and payment to the Labor and Workforce Development Agency ("LWDA")  
5 for penalties under the Labor Code Private Attorneys General Act ("PAGA") should be granted.

6 13. Counsel for the Parties shall file memoranda, declarations, or other statements and  
7 materials in support of their request for final approval of the Settlement, attorneys' fees, litigation  
8 expenses, Plaintiff's Enhancement Payment, settlement administration costs, and payment to the  
9 LWDA for PAGA penalties prior to the Final Fairness Hearing according to the time limits set  
10 by the Code of Civil Procedure and the California Rules of Court.

11 14. An implementation schedule is below:

Event	Date
Defendants to provide Class Data to Settlement Administrator no later than [approximately 15 days after preliminary approval]:	September 28, 2022
Settlement Administrator to mail Class Notice, Request for Exclusion and Objection Form to Class Members no later than [7 days after receiving class data]:	October 5, 2022
Deadline for Settlement Class members to request exclusion from, or object to, the Settlement [60 days after mailing]:	December 4, 2022
Final Fairness Hearing:	January __, 2023

19 15. Pending the Final Fairness Hearing, all proceedings in this action, other than  
20 proceedings necessary to carry out or enforce the terms and conditions of the Settlement and this  
21 Order, are stayed. The April 3, 2022 trial date and all associated deadlines, including the March  
22 9, 2023 Settlement Conference and March 30, 2023 Readiness Conference are VACATED.

23 16. Counsel for the Parties are hereby authorized to utilize all reasonable procedures  
24 in connection with the administration of the Settlement which are not materially inconsistent with  
25 either this Order or the terms of the Settlement.

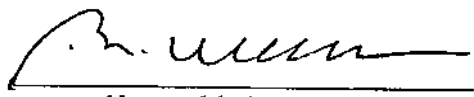
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1 **IT IS SO ORDERED.**

2  
3 Dated: 9/13, 2022

  
Honorable Bret R. Hillman  
Judge of the Superior Court

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