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FILED
Clerk of the Superior Court

OCT 07 2022

By: A. Taylor, Deputy

~~ELECTRONICALLY RECEIVED
Superior Court of California,
County of San Diego~~

~~08/17/2022 at 02:30:54 PM~~

~~Clerk of the Superior Court
By Taylor Crandall, Deputy Clerk~~

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO

ARACELI CASILLAS, individually and on
behalf of all others similarly situated

Plaintiff,

vs.

THE PRODUCE EXCHANGE, INC.; and
DOES 1 through 20, inclusive,

Defendants.

Case No. 37-2019-00050077-CU-OE-CTL

*Assigned for all purposes to
Hon. Judge Joel R. Wohlfeil
Dept. C-73*

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

1 WHEREAS, the above-entitled action is pending before this Court as a putative class
2 action (the "Action");

3 WHEREAS, Plaintiff Araceli Casillas ("Plaintiff"), individually and on behalf of all
4 others similarly situated and on behalf of the general public have applied to this Court for an order
5 preliminarily approving the settlement of the Action in accordance with the Joint Stipulation of
6 Class Action Settlement (the "Settlement" or "Agreement") entered into by Plaintiff and
7 Defendant The Produce Exchange, Inc. ("Defendant") which sets forth the terms and conditions
8 for a proposed settlement upon the terms and conditions set forth therein (Plaintiff and Defendant
9 shall be collectively referred to herein as the "Parties"); and

10 WHEREAS, the Court has read and considered Plaintiff's Motion for Preliminary
11 Approval of Class Action Settlement.

12 NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED
13 THAT:

14 1. This Order incorporates by reference the definitions in the Settlement attached as
15 Exhibit I to the Declaration of Joseph M. Szilagy in Support of Plaintiff's Motion for Preliminary
16 Approval of Class Action Settlement and all terms defined therein shall have the same meaning in
17 this Order.

18 2. It appears to the Court on a preliminary basis that (a) the Settlement is fair,
19 adequate and reasonable; (b) the Gross Settlement Amount and Net Settlement Amount are fair,
20 adequate and reasonable when balanced against the probable outcome of further litigation relating
21 to liability and damages issues; (c) sufficient investigation and research have been conducted such
22 that counsel for the Parties at this time are able to reasonably evaluate their respective positions;
23 (d) settlement at this time will avoid additional costs by all Parties, as well as avoid the delay and
24 risks that would be presented by the further prosecution of the Action; and (e) the Settlement has
25 been reached as the result of non-collusive, arms-length negotiations.

26 3. With respect to the Class and for purposes of proceeding pursuant to California
27 Code of Civil Procedure § 382 for approval of the settlement only, the Court finds on a
28 preliminary basis that (a) Class Members are ascertainable and so numerous that joinder of all

1 Class Members is impracticable; (b) there are questions of law and fact common to the Class that
2 predominate over any questions affecting only individual Class Members; (c) Plaintiff's claims
3 are typical of the Class' claims; (d) class certification is a superior method for implementing the
4 Settlement and adjudicating this Action in a fair and efficient manner; (e) the Class Representative
5 can fairly and adequately protect the Class' interests; and (f) Class Counsel are qualified to serve
6 as counsel for the Class.

7 4. Accordingly, solely for purposes of effectuating this Settlement, this Court
8 hereby conditionally certifies the class for settlement purposes only. The Class is defined as all
9 current and former exempt employees who are or were employed by Defendant in California at
10 any time from September 20, 2015, through July 31, 2022, excluding employees who worked in
11 the Executive, Director Jr., General Manager, IT Director, Operations Manager, and Warehouse
12 Manager positions.

13 5. Plaintiff Araceli Casillas is hereby preliminarily appointed and designated,
14 for all purposes, as the Class Representative and the following attorneys of Aegis Law Firm, PC
15 ("Class Counsel") are hereby preliminarily appointed and designated as counsel for the Class. Class
16 Counsel is authorized to act on behalf of the Class Members with respect to all acts or consents
17 required by, or which may be given pursuant to, the Settlement, and such other acts reasonably
18 necessary to consummate the Settlement. Any Class Member may enter an appearance either
19 personally or through counsel of such individual's own choosing and at such individual's own
20 expense. Any Class Member who does not enter an appearance or appear on his or her own will be
21 represented by Class Counsel.

22 6. Should, for whatever reason, the Settlement not become final, the fact that the
23 Parties were willing to stipulate to certification of the Class as part of the Settlement shall have no
24 bearing on, nor be admissible in connection with, the issue of whether a class should be certified in
25 a non-settlement context.

26 7. The Court hereby preliminarily approves the definition and disposition of the Gross
27 Settlement Amount and Net Settlement Amount and related matters provided for in the Settlement,
28 subject to modification at final approval.

1 8. The Court hereby preliminarily approves the Gross Settlement Amount of
2 \$320,000.00.

3 9. The Court hereby preliminarily approves Class Counsel attorneys' fees of up to
4 thirty-five percent of the Gross Settlement Amount (currently equal to \$112,000.00), Class Counsel
5 litigation expenses not to exceed \$15,000.00, an Incentive Award up to \$15,000.00 to Plaintiff,
6 payment to the LWDA in the amount of \$15,000.00 for the LWDA's portion of the PAGA award,
7 and costs of administration not to exceed \$6,500.00, subject to final approval.

8 10. The Court hereby approves, as to form and content, the Class Notice, to be
9 distributed to Class Members. The Court finds that distribution of the Class Notice, substantially in
10 the manner and form set forth in the Settlement and this Order, meets the requirements of due
11 process, is the best notice practicable under the circumstances, and shall constitute due and
12 sufficient notice to all persons entitled thereto.

13 11. The Court hereby orders Defendant to produce the Class List to the Settlement
14 Administrator as provided in the Settlement Agreement.

15 12. The Court hereby appoints Phoenix Settlement Administrators as Settlement
16 Administrator and hereby directs the Settlement Administrator to mail or cause to be mailed to
17 Class Members the Class Notice using the procedures set forth in the Settlement Agreement. Class
18 Members who wish to participate in the settlement provided for by the Settlement Agreement do
19 not need to respond to the Class Notice.

20 13. All costs of mailing of the Class Notice, whether foreseen or not, shall be paid
21 from the Gross Settlement Amount, including the cost of searching for Class Members' addresses
22 as provided in the Settlement, and all other reasonable costs of the Settlement Administrator up
23 to \$6,500.00 as provided in the Settlement.

24 14. Any Class Member may choose to opt-out of and be excluded from the Class as
25 provided in the Class Notice. Any such person who chooses to opt-out of and be excluded from the
26 Class will not be entitled to any recovery under the Settlement and will not be bound by the
27 Settlement or have any right to object, appeal or comment thereon. Class Members who have not
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1 requested exclusion/opted-out shall be Participating Class Members and bound by all
2 determinations of the Court, the Settlement, and the Final Judgment.

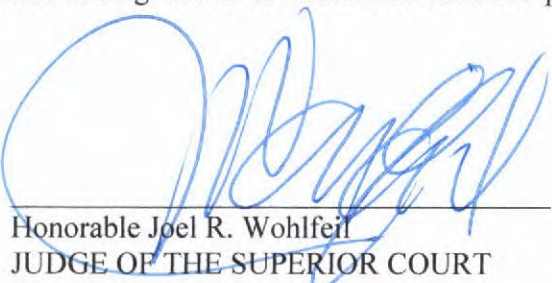
3 15. A Final Fairness and Approval Hearing shall be held before this Court on
4 1-20-23, at 9:00 AM in Department C-73 of the Superior Court for
5 the State of California, County of San Diego, located at 330 W. Broadway, San Diego, California
6 92101. All papers in support of final approval and related awards for fees, costs, and Plaintiff's
7 incentive award must be filed and served at least 16 court days before the final approval hearing.

8 16. Any Participating Class Member must object to the Settlement by following the
9 instructions for submitting written objections that are set forth in the Settlement Agreement and
10 Class Notice, and may appear at the Final Fairness and Approval Hearing. The Court shall retain
11 final authority with respect to the consideration and admissibility of any objections. Any
12 Participating Class Member who objects to the Settlement shall be bound by the order of the Court.

13 17. Jurisdiction is hereby retained over this Action, the Parties to the Action, and each
14 of the Class Members for all matters relating to this Action, and this Settlement, including
15 (without limitation) all matters relating to the administration, interpretation, effectuation, and/or
16 enforcement of this Settlement and this Order.

17 18. The Court reserves the right to adjourn or continue the date of any hearing and all
18 dates provided for in the Settlement without further notice to Class Members, and retains
19 jurisdiction to consider all further applications arising out of or connected with the proposed
20 Settlement.

21
22 DATED: 01-22



Honorable Joel R. Wohlfeil
JUDGE OF THE SUPERIOR COURT