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15 **SUPERIOR COURT OF THE STATE CALIFORNIA**
16 **COUNTY OF ALAMEDA**

17 RAFAEL HERNANDEZ and IVAN RODAS,
18 for themselves and all other persons similarly
19 situated,

20 Plaintiffs,

21 v.


22 GAZZALI'S SUPERMARKET
23 CORPORATION, a California Corporation;
24 GAZZALI'S EXPRESS CORPORATION, a
25 California Corporation; GAZZALI'S EXTRA
26 CORPORATION, a California Corporation;
27 MIKE ALGAZZALI, an individual; and DOES
28 1-20, inclusive,

Defendants.

FILED
ALAMEDA COUNTY

MAY 22 2023

CLERK OF THE SUPERIOR COURT

By  Deputy

Case No. RG19043094

**~~PROPOSED~~ ORDER GRANTING
MOTION FOR PRELIMINARY
APPROVAL OF CLASS/PAGA
SETTLEMENT**

Before the Honorable Brad Seligman

1 Plaintiffs' unopposed Motion for Preliminary Approval of Class Settlement is granted.

2 Having read and considered the moving papers, the Declaration of Joseph D. Sutton filed in
3 support thereof and the exhibits attached thereto, including the Amended Settlement Agreement,
4 proposed revised Class Notice Packet, and Settlement Administrator bid and information packet,
5 and supplemental filings, and good cause appearing, the Court finds and orders as follows:

6 1. Plaintiffs Ivan Rodas and Rafael Hernandez ("Plaintiffs") and Defendants Gazzali's
7 Supermarket Corporation and Mike Algazzali ("Defendants"), through their respective counsel of
8 record, have reached an agreement to settle all claims in this class action, which alleges violations
9 of the California Labor Code and California's Private Attorney General Act ("PAGA"), Labor Code
10 sections 2698 *et seq.* See Class Action Settlement Agreement (hereinafter "Settlement Agreement"
11 or "Settlement"), Ex. 1 to the Declaration of Joseph D. Sutton ("Sutton Decl.").

12 2. The Court has reviewed the terms of the proposed Settlement Agreement, as well as
13 the Declarations of Joseph D. Sutton, which sets out in detail the litigation, the discovery conducted,
14 and mediation efforts undertaken by both parties that paved the way for this Settlement. Based
15 upon this Court's review of the Settlement Agreement, the Notice and Motion for Approval of Class
16 Settlement, the Memorandum of Points and Authorities in Support Thereof, the Declaration of
17 Joseph D. Sutton in support of the Motion and the exhibits attached thereto, as well as the entire
18 record in this matter, the Court finds that the Settlement appears to be fair, adequate, and reasonable
19 to the Class, and falls within the range of possible judicial approval.

20 3. The Court confirms that the notice procedure presented by the Settlement
21 Agreement constitutes the best notice practicable, while also providing, within the relevant notice
22 documents, all information required to protect the due process interests of the Class. The proposed
23 notice procedure is the best practicable in that the Class Notice will be issued to the Class via United
24 States Postal Service First Class Mail for whom valid mailing addresses are available. In addition,
25 the Settlement Administrator will take the necessary steps to resend the Class Notice in certain
26 situations to ensure that the notice reaches as many of the Class Members as is practical. The Court
27 further finds that the proposed notice procedure appropriately provides notice to the Class of the
28 terms of the Settlement Agreement and the options facing the Class including, but not limited to:

1 exclusion from the Settlement; representation by counsel of their choosing; to remain a member of
2 the Class and automatically receive payment if the Settlement Administrator has their valid mailing
3 address; and/or objecting to the terms of the Settlement.

4 Therefore, good cause appearing, **IT IS HEREBY ORDERED** that:

5 4. The Court preliminarily approves the Class Action Settlement Agreement;

6 5. The Court grants conditional certification of the following Class for settlement
7 purposes only, pursuant to Code of Civil Procedure section 382:

8 All individuals who were employed by Gazzali's Supermarket Corporation in
9 California as non-exempt and/or hourly-paid employees at any time(s) from
November 8, 2015 through the date of preliminary approval.

10 6. The Court Appoints Advocates for Worker Rights LLP as Class Counsel for the
11 Class;

12 7. The Court appoints Plaintiffs Ivan Rodas and Rafael Hernandez as Class
13 Representatives for the Class;

14 8. The Court approves, as to form and content, the proposed revised Class Notice and
15 the Class Member Verification Form; the procedure for providing notice to the Class; and the
16 procedure for Class members to object to, or request exclusion from, the Settlement. In
17 implementing the proposed notice procedure, the Parties may make any necessary changes to these
18 documents provided those changes are consistent with this Order;

19 9. The Court will not rule on the proposed attorneys' fees and costs or the Class
20 Representatives' service awards at this time; rather, it will consider whether to approve those
21 requests based on its review of a separate noticed motion to be filed by Plaintiffs prior to the final
22 approval hearing;

23 10. The Court hereby appoints Phoenix Class Action Solutions ("Phoenix") as the
24 Settlement Administrator and directs the Settlement Administrator to perform all tasks related to
25 administration and distribution of this Settlement. The proposed Settlement Administrator,
26 Phoenix, provided a bid of \$10,750 to administer this Settlement. Should the administration cost
27 be less than \$10,000, the difference will be distributed to the Class on a *pro rata* basis;
28

1 11. The Settlement Administrator is further ordered to provide the approved Class
2 Notice in accordance with the schedule below (to the extent any discrepancies between these items
3 and the Settlement exist, the terms of this Order shall control):

4 a. No later than fifteen (15) business days after the Court enters its Order
5 Granting Preliminary Approval, Defendants shall provide the Settlement Administrator with Class
6 Member Data, preferably in electronic form, containing, for each Class Member, the Class
7 Member's name, last known address, telephone, and/or email address, and Social Security number,
8 and the start and end date for each Class Member's employment; At the time Company Defendant
9 transmits the Class List(s) to the Settlement Administrator, it shall also provide to Class Counsel a
10 signed verification confirming the accuracy of the number of Class Members.

11 b. Within seven (7) business days of receipt of the Database from Defendants,
12 the Settlement Administrator will mail the Class Notice Packets (in English and Spanish) to all
13 identified Class Members via first-class regular U.S. Mail. Prior to the mailing of Class Notice to
14 Class Members, the Settlement Administrator shall perform an electronic address search/check;

15 c. Within seven (7) business days from the date of receipt of a Class Notice
16 Packet that is returned because of an incorrect address, the Settlement Administrator will promptly
17 search for a more current address for the Class Member using Accurant and other reasonable and
18 cost-effective skip trace methods, and re-mail the Class Notice Packet to the Class Member;

19 d. Within forty-five (45) days from the date the Settlement Administrator sends
20 the Class Notice Packet (Ex. A to this Order), Class Member who wishes to object to any term of
21 the Settlement may serve on the Settlement Administrator a written objection to the Settlement
22 setting forth the grounds for the objection no later than the Response Deadline. Alternatively, a
23 class member may appear at the final hearing and object even if he or she had not served a written
24 objection. Class Counsel and Defendants' counsel will file a response to any written objection
25 within seven (7) business days before the Final Approval Hearing;

26 e. A Class Member who wishes to dispute the number of workweeks they
27 worked outlined in the Class Member Verification Form contained in Exhibit A attached hereto
28 may do so by notifying the Settlement Administrator in writing along with any supporting evidence

1 by FAX, email, or mail postmarked no later than five business days before the response deadline.
2 The Settlement Administrator will make the final determination as to the correct number of
3 compensable workweeks for such a Class Member;

4 f. Not later than five (5) business days after the deadline to contest the Class
5 Member Verification Form and request to be excluded from the Settlement, the Settlement
6 Administrator will provide the Parties with a complete and accurate list of all Class Members who
7 have contested the information on their Class Member Verification Form or requested to be
8 excluded from the Settlement;

9 12. The Settlement Administrator will make three disbursements from the Gross
10 Settlement Amount. The first disbursement of \$200,000 will be made no later (45) days after the
11 Effective Date of the Settlement, as defined in this Agreement. In the first disbursement, the
12 Settlement Administrator will meet any reporting obligations and pay individual Class and PAGA
13 settlement awards to Class Members and Class Counsel's court-approved litigation expenses. The
14 second payment shall be the Court-approved enhancement awards to the Class Representatives and
15 shall be made at the earliest time following completion of the first payment. The third payment
16 will be made no later than fifteen (15) days after Defendants make their 12th and final monthly
17 payment. In the third disbursement, the Settlement Administrator will meet any reporting
18 obligations and pay (1) \$7,500 to the LWDA for their portion of the PAGA settlement, (2) Court-
19 approved Class Counsel's attorneys' fees (minus 10% of the total attorneys' fees award that will be
20 maintained by the Settlement Administrator until the final compliance hearing), and (3) the
21 Settlement Administrator's costs.

22 13. Within ninety (90) days after Settlement Share Checks are mailed, if Class Members
23 fail to cash the check for their Settlement Shares, and if the aggregate funds represented by the
24 uncashed checks total \$10,000.00 or more, uncashed Settlement Shares will be distributed to each
25 Class Member who is participating in the Settlement and cashed the check for their Settlement
26 Share, in the same pro rata manner that initial Settlement Shares were calculated;


27 14. If the aggregate funds represented by the uncashed checks total less than \$10,000.00,
28 they will be donated to the Centro Legal de la Raza, the designated cy pres recipient. Should there

1 be a distribution to the cy pres recipient pursuant to the Settlement, Plaintiffs' counsel will submit
2 a post-judgment report of the amount actually paid to the Class and an amendment of the judgment
3 to to indicate the amount paid to the cy pres recipient.

4 15. A Final Approval Hearing shall be held on September 5, 2023 at 3:00 p.m. in
5 Department 23 of this Court, to determine whether the Settlement is fair, adequate, reasonable, and
6 should be approved. The Court reserved the right to adjourn or continue the date of the Fairness
7 Hearing without further notice to the Class.

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10 **IT IS SO ORDERED.**

11
12 *may 22*
13 Dated: ~~April~~ *May* 22, 2023



The Honorable Brad Seligman
Judge of the Superior Court