

FEB 17 2022

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7 Attorneys for Plaintiff

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 FOR THE COUNTY OF MADERA

10 MARIA E. HERRERA DE QUILO, as an
11 individual and on behalf of all others similarly
12 situated,

13 Plaintiff,

14 vs.

15 YERGAT PACKING COMPANY, INC., a
16 California corporation; and DOES 1 through 100,

17 Defendants.

Case No. MCV085367

[Assigned for all purposes to the Hon.
Michael J. Jurkovich]

**[PROPOSED] FINAL ORDER OF
APPROVAL OF CLASS ACTION
SETTLEMENT AND FINAL
JUDGEMENT**

Date: March 15, 2022
Time: 9:30 a.m.
Dept.: 44

Complaint Filed: May 12, 2020
Trial Date: None Set

by fax

1 This matter came on regularly for hearing before this Court on March 15, 2022, at 9:30
2 a.m. pursuant to California Rule of Court 3.769 and this Court’s November 30, 2021 Order
3 Granting Motion for Preliminary Approval of Class Action Settlement (“Preliminary Approval
4 Order”). Having considered the Parties’ Stipulation of Settlement (the “Settlement” or
5 “Settlement Agreement”) attached as Exhibit A to the Declaration of Daniel J. Brown In Support
6 of Plaintiff’s Motion for Preliminary Approval of Settlement, filed on August 25, 2021, and the
7 submissions of counsel, and recognizing the sharply disputed factual and legal issues involved in
8 this case, the risks of further prosecution and the benefits to be received by the Class pursuant to
9 the Settlement, the Court hereby makes a final ruling that the proposed Settlement is fair,
10 reasonable, and adequate, and is the product of good faith, arm’s-length negotiations between the
11 Parties.

12 Unless otherwise indicated, all terms used in this Order shall have the same meaning as
13 that assigned to them in the Settlement.

14 Good cause appearing thereof, the Court hereby GRANTS Plaintiff’s Motion for Final
15 Approval of Class Action Settlement and ORDERS as follows:

16 1. The conditional class certification contained in the Preliminary Approval Order is
17 hereby made final, and the Court thus certifies, for purposes of the Settlement only, a Settlement
18 Class consisting of:

19 All former non-exempt employees of Yergat Packing Company, Inc. who were subject
20 to the requirements of Wage Order 14 and did not sign an arbitration agreement who
21 worked for Yergat Packing Company, Inc. in California at any time during the period of
May 12, 2016, to December 18, 2020 (“Class Period”).

22 2. Plaintiff Maria E. Herrera De Quilo is hereby confirmed as Class Representative,
23 and Daniel J. Brown of Stansbury Brown Law is hereby confirmed as Class Counsel.

24 3. Notice was provided to the Settlement Class as set forth in the Settlement, which
25 was preliminarily approved by the Court on November 30, 2021, and the notice process has been
26 completed in conformity with the Court’s Order. The Court finds that said notice was the best
27 notice practicable under the circumstances. The Class Notice provided due and adequate notice
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1 of the proceedings and matters set forth herein, informed Class Members of their rights, and fully
2 satisfied the requirements of California Code of Civil Procedure § 1781(e), California Rule of
3 Court 3,769, and due process.

4 4. The Court finds that no Class Member objected to the Settlement and only two
5 Class Members opted-out of the Settlement, and that the 99.4% participation rate in the Settlement
6 supports final approval. The two (2) individuals who opted out are: Melquiades Lopez Gomez
7 and Lidia Sierra.

8 5. The Court hereby approves the settlement as set forth in the Settlement as fair,
9 reasonable, and adequate, and directs the Parties to effectuate the Settlement according to its
10 terms.

11 6. For purposes of settlement only, the Court finds that (a) the members of the
12 Settlement Class are ascertainable and so numerous that joinder of all members is impracticable;
13 (b) there are questions of law or fact common to the Settlement Class, and there is a well-defined
14 community of interest among members of the Settlement Class with respect to the subject matter
15 of the litigation; (c) the claims of the Class Representative are typical of the claims of the members
16 of the Settlement Class; (d) the Class Representative has fairly and adequately protected the
17 interests of the Class Members; (e) a class action is superior to other available methods for an
18 efficient adjudication of this controversy; and (f) Class Counsel are qualified to serve as counsel
19 for the Class Representative and the Settlement Class.

20 7. The Court finds that given the absence of objections, and objections being a
21 prerequisite to appeal, that this Order and Judgment shall be considered final as of the date of
22 notice of entry.

23 8. The Court orders that the Maximum Settlement Amount of Two Hundred Fifty
24 Thousand Dollars and Zero Cents (\$250,000.00) shall be deposited with the Settlement
25 Administrator, ILYM Group, Inc. (“ILYM”), as provided in the Settlement.

26 9. Any Settlement funds that remain uncashed after 180 days after they are mailed
27 shall be delivered to State of California to be held pursuant to the Unclaimed Property Law,
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1 California Civil Code §1500 *et seq.*, in the name of the Settlement Class Member to whom the
2 check was issued, until such time that the property is claimed.

3 10. The Court finds that the Settlement Awards, as provided for in the Settlement, are
4 fair, reasonable, and adequate, and orders the Settlement Administrator to distribute the Individual
5 Settlement Awards in conformity with the terms of the Settlement. The Court further orders that
6 if any of the Settlement Class Members are Defendant's current employees and the Settlement
7 Award mailed to those current employees is returned to the Settlement Administrator as being
8 undeliverable, and the Settlement Administrator is unable to locate a valid mailing address, the
9 Settlement Administrator shall arrange with Defendant to have those Settlement Awards
10 delivered to the employees at their place of employment.

11 11. The Court finds that an Enhancement Payment in the amount of \$5,000.00 for
12 Plaintiff Maria E. Herrera De Quilo is appropriate for her risks undertaken and service to the
13 Settlement Class. The Court finds that this payment is fair, reasonable, and adequate, and orders
14 that the Settlement Administrator make this payment in conformity with the terms of the
15 Settlement.

16 12. The Court finds that attorneys' fees in the amount of \$83,250.00, and actual
17 litigation costs of \$6,405.89 for Class Counsel, are fair, reasonable, and adequate, and orders that
18 the Settlement Administrator distribute these payments to Class Counsel in conformity with the
19 terms of the Settlement.

20 13. The Court finds that a payment to the Labor & Workforce Development Agency
21 ("LWDA") in the amount of \$3,750.00 for the LWDA's share of civil penalties under the Labor
22 Code Private Attorneys General Act is fair, reasonable, and adequate, and orders that the
23 Settlement Administrator make this payment in conformity with the terms of the Settlement.

24 14. The Court orders that the Settlement Administrator shall be paid \$30,000.00 from
25 the Maximum Settlement Amount for all of its work done and to be done until the completion of
26 this matter, and finds that sum appropriate.

27 15. Pursuant to the terms of Settlement, the employer's share of payroll taxes for the
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1 portion of the Net Settlement Amount allocated to wages shall be paid by Defendant separately,
2 and in addition to, the Maximum Settlement Amount.

3 16. The Court finds and determines that upon satisfaction of all obligations under the
4 Settlement and this Order, all Settlement Class Members, except for Melquiades Lopez Gomez
5 and Lidia Sierra who submitted valid requests for exclusion, will be bound by the Settlement and
6 will have released the Released Claims as set forth in the Settlement.

7 17. Settlement is not an admission by Defendant, nor is this Order and Final Judgment
8 a finding of the validity of any allegations or of any wrongdoing by Defendant. Neither this Order
9 and Final Judgment, the Settlement, nor any document referred to herein, nor any action taken to
10 carry out the Settlement, shall be construed or deemed an admission of liability, culpability, or
11 wrongdoing on the part of Defendant.

12 18. As of the date of this Order and Final Judgment, Plaintiff and every member of
13 the Settlement Class, except for Melquiades Lopez Gomez and Lidia Sierra, shall be deemed to
14 have released and discharged Defendant, its past and present officers, directors, shareholders,
15 employees, agents, principals, heirs, representatives, and their respective successors and
16 predecessors in interest, subsidiaries, affiliates, parents, and attorneys (collectively the “Released
17 Parties”) for all claims that were pled or could have been pled based on the factual allegations in
18 the SAC, including: (a) minimum wage violations (b) failure to pay all overtime wages; (c) meal
19 period violations; (d) rest period violations; (e) failure to reimburse necessary business expenses;
20 (f) wage statement violations; (g) waiting time penalties; (h) all claims arising out of unfair
21 business practices under Business & Professions Code § 17200, *et seq.* that could have been
22 premised on the claims that were pled or could have been pled based on the factual allegations
23 in the SAC; and (i) all claims for civil penalties under the PAGA, that could have been premised
24 on the claims that were pled or could have been based on the factual allegations in the SAC.
25 (collectively, the “Released Claims”). The period of the Release shall extend to the limits of the
26 Class Period.

27 Plaintiff and all Settlement Class Members who were employed by Defendant in
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1 California at any time from May 12, 2019 through December 18, 2020, will not have the
2 opportunity to opt out or object to the PAGA Amount, as described in section 3(B)(5) of the
3 Settlement, and/or release of PAGA claims set forth in the Settlement. Notwithstanding the
4 paragraphs above nor anything else in the Settlement, Plaintiff's waiver and release in the
5 Settlement does not apply to (i) those rights that as a matter of law cannot be waived, including,
6 but not limited to, workers' compensation claims, pending or otherwise; and (ii) rights or claims
7 arising out of this Settlement.

8 19. The releases identified herein shall be null and void should the Settlement not be
9 fully funded.

10 20. This document shall constitute a final judgment pursuant to California Rule of
11 Court 3.769(h) which provides, "If the court approves the settlement agreement after the final
12 approval hearing, the court must make and enter judgment. The judgment must include a
13 provision for the retention of the court's jurisdiction over the parties to enforce the terms of the
14 judgment. The court may not enter an order dismissing the action at the same time as, or after,
15 entry of judgment." Pursuant to section 664.6 of the California Code of Civil Procedure, the
16 Court will retain jurisdiction to enforce the Settlement and this Final Order and Judgment.

17 21. The Settlement Class Members will be provided notice with their Individual
18 Settlement Awards that the Final Order and Judgment is posted on the landing page of the
19 Settlement Administrator's website. A copy of the Final Order and Judgment entered by the Court
20 shall be posted by the Settlement Administrator on the Settlement Administrator's website on the
21 landing page at (<https://ilymgroup.com/>).

22 22. The Settlement Administrator shall file a declaration regarding the disbursement
23 of Settlement funds on or before October 26, 2022, and the date for the Final Report
24 (Nonappearance) Hearing shall be set for November 8, 2022. The declaration shall state the date
25 the checks were mailed, the total number of checks mailed to Settlement Class Members, the
26 average amount of those checks, the number of checks that remain uncashed, the total value of
27 those uncashed checks, the average amount of the uncashed checks, and the nature and date of
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1 the disposition of those unclaimed funds.

2 **APPROVED AS TO FORM:**

3 Dated: February 17, 2022

STANSBURY BROWN LAW

4
5 By:



Daniel J. Brown
Attorneys for Plaintiff

6
7 Dated: 2/17/22

RAIMONDO & ASSOCIATES,
A LAW CORPORATION

8
9
10 By:



Steve Wainess
James D. Miller
Attorneys for Defendant

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12
13
14 **IT IS SO ORDERED. JUDGMENT IS HEREBY ENTERED.**

15 Dated: _____, 2022

Honorable Michael J. Jurkovich
Judge of the Superior Court