

Electronically Filed
6/11/2020 9:40 AM
Superior Court of California
County of Stanislaus
Clerk of the Court
By: Erin Barnett, Deputy

1 **HAINES LAW GROUP, APC**
2 Paul K. Haines (SBN 248226)
3 phaines@haineslawgroup.com
4 Sean M. Blakely (SBN 264384)
5 sblakely@haineslawgroup.com
6 Diana M. Martinez (SBN 322654)
7 dmartinez@haineslawgroup.com
8 222 N. Sepulveda Blvd., Suite 1550
9 El Segundo, California 90245
10 Tel: (424) 292-2350
11 Fax: (424) 292-2355

12 Attorneys for Plaintiff

13
14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
15
16 **FOR THE COUNTY OF STANISLAUS**

17 MARIELA CRUZ, an individual, on behalf of
18 herself and all other similarly aggrieved
19 employees,

20 Plaintiff,

21 vs.

22 TRAINA DRIED FRUIT, INC., a California
23 Corporation, dba Traina Foods; and DOES 1
24 through 100,

25 Defendants.

Case No.: 9000819

[Assigned for all purposes to Hon. Marie Sovey
Silveira; Dept. 21]

~~[AMENDED PROPOSED]~~ ORDER
GRANTING PLAINTIFF'S MOTION FOR
FINAL APPROVAL OF CLASS ACTION
SETTLEMENT, CLASS
REPRESENTATIVE ENHANCEMENT
PAYMENT, AND ATTORNEYS' FEES
AND COSTS

Date: June 4, 2020

Time: 8:30 a.m.

Dept.: 21

Complaint Filed: April 11, 2018

Trial Date: None Set

1 **ORDER**

2 The Motion of Plaintiff Mariela Cruz (“Plaintiff”) for Final Approval of Class Action
3 Settlement, Class Representative Enhancement Payment, and Attorneys’ Fees and Costs (“Final
4 Approval Motion”) came on regularly for hearing before this court on June 4, 2020 at 8:30 a.m.
5 pursuant to California Rule of Court 3.769 and this Court’s earlier Order Granting Preliminary
6 Approval of Class Action Settlement (“Preliminary Approval Order”). Having considered the
7 Stipulation of Settlement (the “Settlement”)¹ and the documents and evidence presented in
8 support thereof, and recognizing the sharply disputed factual and legal issues involved in this
9 case, the risks of further prosecution and the substantial benefits to be received by the Settlement
10 Class pursuant to the Settlement, the Court hereby makes a final ruling that the proposed
11 Settlement is fair, reasonable, and adequate, and is the product of good faith, arm’s-length
12 negotiations between the parties. Good cause appearing therefor, the Court hereby GRANTS
13 Plaintiff’s Final Approval Motion and ORDERS as follows:

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

17 All current and former non-exempt employees of Defendant Traina Dried
18 Fruit, Inc., except office, forklift, and maintenance employees, who were
19 employed in California from June 18, 2015 until June 18, 2019 (the “Class
20 Period”).

21 2. Plaintiff Mariela Cruz is hereby confirmed as the Class Representative, and Paul
22 K. Haines and Sean M. Blakely of Haines Law Group, APC are hereby confirmed as Class
23 Counsel.

24 3. Notice was provided to the Settlement Class as set forth in the Settlement, which
25 was approved by the Court on December 5, 2019, and the notice process has been completed in
26 conformity with the Court’s Orders. The Court finds that said notice was the best notice
27

28 ¹ All terms used in this Order shall have the same meaning as that assigned to them in the Settlement.

1 practicable under the circumstances. The Class Notice provided due and adequate notice of the
2 proceedings and matters set forth therein, informed Settlement Class members of their rights, and
3 fully satisfied the requirements of California Code of Civil Procedure § 1781(e), California Rule
4 of Court 3.769, and due process.

5 4. The Court hereby approves the Settlement as set forth in the Settlement Agreement
6 as fair, reasonable, and adequate, and directs the parties to effectuate the Settlement Agreement
7 according to its terms.

8 5. The Court finds that no Settlement Class member objected to or opted out of the
9 Settlement, and that the 100% participation rate in the Settlement supports final approval.

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

19 7. The Court orders that Defendant Traina Dried Fruit, Inc. (“Defendant”) shall
20 deposit the Maximum Settlement Amount of \$625,000.00 with the Settlement Administrator,
21 ILYM Group, Inc. within fifteen (15) business days of this Order or receiving wire instructions
22 from the Settlement Administrator, whichever is later.

23 8. The Court finds that the settlement payments, as provided for in the Settlement,
24 are fair, reasonable, and adequate, and orders the Settlement Administrator to distribute the
25 individual payments in conformity with the terms of the Settlement.

26 9. The Court finds that a Class Representative Enhancement Payment of \$7,500.00
27 to Plaintiff is appropriate for the risks undertaken and her service to the Settlement Class. The
28 Court finds that the enhancement payment is fair, reasonable, and adequate, and orders that the

1 Settlement Administrator make this payment in conformity with the terms of the Settlement.

2 10. The Court finds that attorneys' fees in the amount of \$208,333.33. and actual
3 litigation costs of \$17,146.65 to Class Counsel, are fair, reasonable, and adequate, and orders that
4 the Settlement Administrator distribute these payments to Class Counsel in conformity with the
5 terms of the Settlement.

6 11. The Court order that the Settlement Administrator, ILYM Group, Inc., shall be
7 paid \$12,000.00 from the Maximum Settlement Amount for all of its work done and to be done
8 until the completion of this matter, and finds that sum appropriate.

9 12. The Court finds that a payment to the Labor & Workforce Development Agency
10 ("LWDA") in the amount of \$30,000.00 for the LWDA's share of civil penalties under the Labor
11 Code Private Attorneys General Act is fair, reasonable, and adequate, and orders that the
12 Settlement Administrator make this payment in conformity with the terms of the Settlement.

13 13. The Court finds and determines that upon satisfaction of all obligations under the
14 Settlement and this Order, all Settlement Class members are bound by the Settlement, have
15 released their claims as set forth in the Settlement, and are permanently barred from prosecuting
16 against Defendant any individual or class claims released pursuant to the Settlement.

17 14. The Settlement is not an admission by Defendant, nor is this Order a finding of the
18 validity of any allegations or of any wrongdoing by Defendant. Neither this Order, the Settlement,
19 nor any document referred to herein, nor any action taken to carry out the Settlement, shall be
20 construed or deemed an admission of liability, culpability, or wrongdoing on the part of
21 Defendant.

22 15. Upon the date of this Order, Plaintiff and every member of the Settlement Class
23 will fully release and discharge Defendant Traina Dried Fruit, Inc. and any of its former or present
24 parents, subsidiaries, affiliates, investors, partners, owners, predecessors, or successors, and all
25 agents, employees, officers, directors, members, managers, holding companies, insurers, and their
26 attorneys (collectively, the "Released Parties"), from any and all claims and causes of action pled
27 in the Action, including claims for: (1) unpaid minimum wages; (2) unpaid overtime wages; (3)
28 meal period violations; (4) rest period violations; (5) wage statement violations; (6) waiting time

1 penalties; (7) unfair business practices; and (8) any claims under the Private Attorneys General
2 Act (“PAGA”) arising from the claims outlined above (“Released Claims”). The period of the
3 Release shall extend to the limits of the Class Period. The *res judicata* effect of the judgment will
4 be the same as that of the Release.

5 16. The Court finds that, pursuant to the Settlement, and in consideration for the
6 enhancement payment, upon satisfaction of all obligations under the Settlement and this Order,
7 shall, by virtue of the accompanying Judgment, Plaintiff as an individual and in addition to the
8 Released Claims described above, all claims, whether known or unknown, under federal law or
9 state law against the Released Parties. Such claims include, but are not limited to: breaches of
10 contract, whether written, oral or implied; violations of any public policy; tort claims, including
11 but not limited to intentional infliction of emotional distress and negligent infliction of emotional
12 distress, defamation, misrepresentation, and fraud; retaliation claims; common law claims; any
13 other claims for damages, costs, fees, or other expenses, including attorneys’ fees; and any
14 violations of the following statutes, laws, and regulations: Fair Labor Standards Act, 29 U.S.C.
15 §§ 200, *et seq.*, Title VII of the Civil Rights Act of 1964, as amended; The Civil Rights Act of
16 1991; Sections 1981 through 1988 of Title 42 of the United States Code, as amended; The
17 Americans with Disabilities Act of 1990, as amended; The Age Discrimination in Employment
18 Act of 1967, as amended; the Older Workers Benefit Protection Act; the Employment Retirement
19 Income Security Act of 1974, as amended; the Occupational Safety and Health Act, as amended;
20 the Sarbanes-Oxley Act of 2002; the Family and Medical Leave Act of 1993, as amended; the
21 Fair Labor Standards Act; the California Fair Employment and Housing Act – Cal. Gov’t Code §
22 12900 *et seq.*; the California Family Rights Act – Cal. Gov’t Code § 12945.2 *et seq.*; the
23 California Unruh Civil Rights Act – Civ. Code § 51 *et seq.*; the California Whistleblower
24 Protection Law – Cal. Lab. Code § 1102.5; the California Occupational Safety and Health Act,
25 as amended – Cal. Lab. Code § 6300 *et seq.*, and any applicable regulations thereunder; the
26 California Business and Professions, Civil, Government and Labor Code; the Labor Code Private
27 Attorneys General Act of 2004 – Cal. Lab. Code §2698 *et seq.*; and any other federal, state, or
28 local civil employment law, statute, regulation, or ordinance capable of being released by

1 Plaintiff, excluding any claims that cannot be released as a matter of law. The Parties understand
 2 and agree that Plaintiff is not, by way of this release, releasing any workers' compensation claims
 3 nor any other claims which cannot be released as a matter of law. Notwithstanding the foregoing,
 4 Plaintiff understands that this release includes unknown claims and that Plaintiff is, as a result,
 5 waiving all rights and benefits afforded by Section 1542 of the California Civil Code, which
 6 provides: "A general release does not extend to claims that the creditor or releasing party does
 7 not know or suspect to exist in his or her favor at the time of executing the release and that, if
 8 known by him or her, would have materially affected his or her settlement with the debtor or
 9 released party."

10 17. An implementation schedule is below:


Event	Date
Deadline for Defendant to fund the Settlement and employer tax payments:	June 25, 2020
Deadline for Settlement Administrator to deliver payment of Class Counsel's attorneys' fees and costs, Class Representative Enhancement Payment, payment to the LWDA, Settlement Administrator costs, and Settlement Awards to participating Settlement Class members:	July 2, 2020
Deadline for Settlement Class members to cash Settlement Award checks:	December 29, 2020
Deadline for Settlement Administrator to deliver value of uncashed settlement checks to the Unclaimed Property Division:	January 29, 2021

18 18. The Court orders that the Notice of the Court's Order Granting Final Approval and
 19 Final Judgment shall be posted on the Settlement Administrator's website for a period of at least
 20 ninety (90) days.
 21

22 19. A compliance hearing is set for February 18, 2021 at 8:30 a.m. in Department 21
 23 to confirm full administration of the Settlement.
 24

25 **IT IS SO ORDERED.**

26 Dated: June 8, 2020, 2020

27 
 28 _____
 Honorable Marie Sovey Silveira
 Judge of the Superior Court

PROOF OF SERVICE

Mariela Cruz v. Traina Dried Fruit, Inc.
Stanislaus County Superior Court Case No. 9000819

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is [X] 2155 Campus Drive, Suite 180, El Segundo, California 90245.

On June 4, 2020, I served the foregoing document(s) described as:

[AMENDED PROPOSED] ORDER GRANTING PLAINTIFF’S MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT, CLASS REPRESENTATIVE ENHANCEMENT PAYMENT, AND ATTORNEYS’ FEES AND COSTS

on the interested party(ies) in this action as follows:

Benjamin L. Webster, Esq.
Email: bwebster@littler.com
Britney N. Torres, Esq.
Email: BTorres@littler.com
Douglas L. Ropel, Esq.
Email: DRopel@littler.com
LITTLER MENDELSON, P.C.
500 Capitol Mall, Suite 2000
Sacramento, CA 95814
Attorneys for Defendant TRAINA DRIED FRUIT, INC.

[X] (VIA ELECTRONIC MAIL) Pursuant to Emergency Rule # 12 of the California Rules of Court, I caused the document described above to be sent to the persons at the electronic service addresses listed above via third party cloud service One Legal.

[X] (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on June 4, 2020, at El Segundo, California.



Aaron Clark