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8 Attorneys for Plaintiffs

9 UNITED STATES FEDERAL DISTRICT COURT  
 10 EASTERN DISTRICT OF CALIFORNIA  
 11 FRESNO DIVISION

13 OCTAVIO ALVARADO, PABLO  
 MARTINEZ, OMAR GOMEZ, DANIEL  
 14 GOMEZ, JOSE DE JESUS GARCIA, on behalf  
 of themselves and all other similarly situated  
 15 individuals,

16 PLAINTIFF,

17 vs.

18 REX NEDEREND AND SHERI NEDEREND  
 19 (dba "Northstar Dairy," "Wildwood Farms,"  
 "Freeway Associates")

20 DEFENDANTS.  
 21  
 22  
 23

No. 1:08-cv-01099-OWW-MJS

**ORDER:**

- 14 (1) **CONDITIONALLY  
CERTIFYING SETTLEMENT  
CLASS;**
- 15 (2) **PRELIMINARILY APPROVING  
CLASS SETTLEMENT;**
- 16 (3) **APPOINTING CLASS  
REPRESENTATIVES AND  
CLASS COUNSEL;**
- 17 (4) **APPROVING CLASS NOTICE  
AND RELATED MATERIALS;**
- 18 (5) **APPOINTING SETTLEMENT  
ADMINISTRATOR; AND**
- 19 (6) **SCHEDULING FINAL  
APPROVAL HEARING**

20 Date: January 10, 2010  
 21 Time: 10 a.m.  
 22 Judge: Oliver W. Wanger  
 23 Courtroom: 3

1 On January 10, 2011, a hearing was held on the motion of Octavio Alvarado, Pablo Martinez,  
2 Omar Gomez, Daniel Gomez, and Jose de Jesus Garcia (“Plaintiffs”), for conditional certification of a  
3 settlement class in this action, preliminary approval of the parties’ proposed settlement, approval of the  
4 notice to be sent to the class about the settlement and the forms of class member settlement information  
5 and election not to participate in the settlement, approval of the claim form and consent to jurisdiction,  
6 and the setting of a date for the hearing on final approval of the settlement. Stan S. Mallison of the Law  
7 Offices of Mallison & Martinez appeared for Plaintiffs; and Peter Samuel of Samuel & Samuel appeared  
8 for Defendants.

9 The Court having read and considered the papers on the motion, the arguments of counsel, and  
10 the law, and good cause appearing therefore,

11 IT IS ORDERED:

12 1. The Court has jurisdiction over this action and the parties’ proposed settlement under 28  
13 U.S.C. sections 1331 and 1367, as plaintiffs’ original complaint was brought under the Agricultural  
14 Workers Protection Act 29 U.S.C. § 1801 *et seq.* (“AWPA”); and related California wage-and-hour law;  
15 the Court has original jurisdiction over plaintiffs’ federal law claims; and the Court has supplemental  
16 jurisdiction over plaintiffs’ state-law claims because they arise from the same alleged transactions and  
17 occurrences as do plaintiffs’ federal-law claims.

18 2. The proposed class satisfies the requirements of a settlement class because the class  
19 members are readily ascertainable and a well-defined community of interest exists in the questions of  
20 law and fact affecting the parties.

21 3. The parties’ Settlement Agreement (the “Settlement”) (Declaration of Stan S. Mallison in  
22 Support of Joint Motion for Order: (1) Conditionally Certifying Settlement Class; (2) Preliminarily  
23 Approving Class Settlement; (3) Appointing Class Representatives and Class Counsel; (4) Approving  
24 Class Notice and Related Materials; (5) Appointing Settlement Administrator; and (6) Scheduling Final  
25 Approval Hearing [“Mallison Decl.”], Exh. 1) is granted preliminary approval as it meets the criteria for  
26 preliminary settlement approval. The Settlement falls within the range of possible approval as fair,  
27 adequate and reasonable, and appears to be the product of arm’s-length and informed negotiations and to  
28 treat all Class Members fairly.

1           4.       The parties' proposed notice plan is constitutionally sound because individual notices will  
2 be mailed to all class members whose identities are known to the parties, and such notice is the best  
3 notice practicable. The parties' proposed Notice of Proposed Settlement of Class Action, Conditional  
4 Certification of Settlement Class, Preliminary Approval of Settlement, and Hearing Date for Final Court  
5 Approval ("Class Notice") (Settlement Agreement, Exh. 2), and proposed forms of Claim Form and  
6 Election Not to Participate in Settlement (*id.*, Exhs. 3 and 4)) (collectively the "Class Notice Packet")  
7 are sufficient to inform Class Members of the terms of the Settlement, their rights under the Settlement,  
8 their rights to object to the settlement, their right to receive a Settlement Share or elect not to participate  
9 in the Settlement, and the processes for doing so, and the date and location of the final approval hearing,  
10 and therefore are all approved.

11           5.       The following class of persons are certified as the Class in this action solely for the  
12 purposes of the Settlement:

13                 All persons who are of have been employed by Rex and Sheri Nederend (dba Northstar  
14 Dairy," "Wildwood Farms," or "Freeway Associates" in the State of California as non-  
exempt agricultural dairy employees from July 30, 2004 to until September 7, 2010.

15           6.       Any Class Member who submits a timely and valid Claim Form within forty-five days  
16 after the date the Settlement Administrator mails the Class Notice Packet will receive a Settlement  
17 Share.

18           7.       Any Class Member who wishes to comment on or object to the Settlement or who elects  
19 not to participate in the Settlement has until forty-five days after the mailing of the Class Notice Packet  
20 to submit his or her comment, objection, or Election Not to Participate in Settlement pursuant to the  
21 procedures set forth in the Class Notice.

22           8.       Rust Consulting, Inc., is appointed to act as the Settlement Administrator, pursuant to the  
23 terms set forth in the Settlement.

24           9.       Plaintiffs Octavio Alvarado, Pablo Martinez, Omar Gomez, Daniel Gomez, and Jose de  
25 Jesus Garcia are appointed Class Representatives. Stan Mallison and Hector Martinez of the Law  
26 Offices of Mallison & Martinez are appointed Class Counsel.

27           10.      The Class Notice Packet will be disseminated according to the notice plan described in  
28 the Settlement Agreement and substantially in the form submitted by the parties. Proof of distribution of

1 notice will be filed by the parties at or prior to the final approval hearing.

2 11. Defendants are directed to provide the Settlement Administrator, not later than seven  
3 days after the date of this order, the Class Contact and their dates of employment as specified by the  
4 Settlement Agreement.

5 12. The Settlement Administrator is directed to mail the approved Class Notice Packet by  
6 first-class mail to the Class Members not later than ten days after receipt of the Class Data from Jai Alai.

7 13. A final hearing will be held on January April 4, 2011, at 10:00 a.m. in Department 3 to  
8 determine whether the Settlement should be granted final approval as fair, reasonable, and adequate as  
9 to the Class Members. The Court will hear all evidence and argument necessary to evaluate the  
10 Settlement, and will consider the Class Representatives' request for Class Representative Payment and  
11 Class Counsel's request for the Class Counsel Fees Payment and the Class Counsel Litigation Expenses  
12 Payment. Class Members and their counsel may support or oppose the Settlement and the motion for  
13 awards of the Class Representative Payment and the Class Counsel Fees Payment and Class Counsel  
14 Litigation Expenses Payment, if they so desire, as set forth in the Class Notice.

15 14. This schedule is summarized as follows:

Date	Event
1/10/11	Preliminary Approval hearing (all dates that follow assume this date)
1/24/11	Defendants to provide to Settlement Administrator with an electronic data base containing Class Member contact information and data necessary to calculate settlement shares (14 days after Preliminary Approval)
2/4/11	Settlement Administrator to mail Notice Packets to all Class Members (10 days after receiving Class Member information)
2/25/11	Date for Settlement Administrator to contact Class Members who have not submitted Claim Forms to remind them of the of the upcoming deadline
3/07/11	Last day for Class Members to comment on or object to Settlement (30 days after mailing of Notice Packets), to mail valid Elections Not to Participate in Settlement, and to mail valid claims for Settlement Shares (30 days after mailing of Notice Packets)

Date	Event
3/14/11	Last day for Settlement Administrator to report to parties on Class Members who have elected not to participate in Settlement or who have submitted claims (7 days after the deadline for submission of Elections Not to Participate in Settlement and Claims Forms)
3/14/11	Last day for Settlement Administrator to serve on the parties and file with the Court statement of due diligence in complying with its obligations under the settlement.
3/25/11	Due date for motion for final approval of settlement and plaintiff's separate motion for class representative fee and class counsel's attorneys' fees and expenses
4/4/11	Final approval hearing

15. Any Class Member may appear at the final approval hearing in person or by his or her own attorney, and show cause why the Court should not approve the Settlement, or object to the motion for awards of the Class Representative Payment and the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment. For any comments or objections to be considered at the hearing, the Class Member must file comments with the Clerk of Court indicating briefly the nature of the Class Member's comments, support or objection. Such comments must be filed with the Court, and mailed to Class Counsel, not later than thirty days after mailing of the Class Notice Packet.

16. The Court reserves the right to continue the date of the final approval hearing without further notice to Class Members. Class Members are directed to monitor PACER for developments in this case. The Court retains jurisdiction to consider all further applications arising out of or in connection with the Settlement.

**IT IS SO ORDERED.**

Dated: January 26, 2011

/s/ OLIVER W. WANGER  
United States District Judge