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**UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF CALIFORNIA**

PATRICIA FRANCO and LILIA CASTRO, on )  
behalf of themselves and on behalf of all other )  
similarly situated individuals, )

Plaintiffs, )

v. )

RUIZ FOOD PRODUCTS, INC., and )  
DOES 1-50, inclusive, )

Defendants. )

Case No. 1:10-cv-02354-AWI-SKO

**ORDER PRELIMINARILY  
APPROVING CLASS SETTLEMENT**

(Doc. 27)

**ORDER SETTING FORTH  
IMPLEMENTATION SCHEDULE  
FOR FURTHER PROCEEDINGS**

**ORDER REQUIRING PARTIES TO FILE  
SPANISH-LANGUAGE VERSION OF  
NOTICE OF CLASS SETTLEMENT**

On December 22, 2011, Plaintiffs Patricia Franco and Lilia Castro, on behalf of themselves and all others similarly situated (“Plaintiffs”), and Defendant Ruiz Food Products, Inc. (“Ruiz”), and Does 1-50, (collectively, “Defendant”) filed a joint Motion for Preliminary Approval of Class Action Settlement. (Docs. 27-29.) A hearing was held on February 1, 2012, before Magistrate Judge Sheila K. Oberto.

1           This matter having come before the Court on the Parties' joint motion for preliminary  
2 approval of a proposed class action and collective action settlement of the above-captioned case,  
3 as set forth in the Joint Stipulation of Settlement and Release Between Plaintiffs and Defendant  
4 ("Stipulation of Settlement"), and the Court having duly considered the papers and arguments of  
5 counsel, the Court HEREBY FINDS AND ORDERS as follows:  
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7           1.       Unless defined herein, all defined terms in this order shall have the respective  
8 meanings as the same terms in the Stipulation of Settlement.

9           2.       The Court has conducted a preliminary evaluation of the settlement set forth in  
10 the Stipulation of Settlement for fairness, adequacy, and reasonableness. Based on this  
11 preliminary evaluation, the Court finds that there is probable cause to believe that the settlement  
12 is fair and has been negotiated at arm's length, and that its adequacy is such that the settlement  
13 falls within the range of possible final approval. The Court finds that there is probable cause to  
14 submit the material terms of the settlement to Settlement Class members for their consideration  
15 and reaction. Therefore, the Court grants preliminary approval of the settlement.  
16

17           3.       Pursuant to Federal Rule of Civil Procedure 23(b)(3) and the Fair Labor Standards  
18 Act, and for settlement purposes only, the Court conditionally certifies the proposed Settlement  
19 Class, consisting of all persons currently or formerly employed as non-exempt production line  
20 employees at the Ruiz Foods processing facility in Dinuba, California, between December 15,  
21 2006 and the Date of Preliminary Approval of the Settlement.  
22

23           4.       For settlement purposes only, the Court hereby appoints the following as  
24 Settlement Class Counsel:

25                   Eric L. Young  
26                   Egan Young, Attorneys At Law  
27                   526 Township Line Road, Suite 100  
28                   Blue Bell, PA 19422

1           Rose F. Luzon  
2           Shepherd, Finkelman, Miller & Shah, LLP  
3           401 West A Street, Suite 2350  
            San Diego, CA 92101

4           Philip A. Downey  
5           The Downey Law Firm, LLC  
6           P.O. Box 1021  
            Unionville, PA 19375

7           5.       On August 1, 2012, at 9:30 a.m., this Court will hold a Fairness Hearing on the  
8           fairness, adequacy, and reasonableness of the Stipulation of Settlement and proposed settlement,  
9           and to determine whether (a) final approval of the settlement should be granted; and  
10          (b) Settlement Class Counsel's application for attorneys' fees and expenses should be granted,  
11          and in what amount; and (c) whether the request for enhancement awards for the named  
12          Plaintiffs in this litigation should be granted, and in what amount. No later than July 5, 2012,  
13          Plaintiffs must file their papers in support of final settlement approval and in response to any  
14          objections. No later than July 20, 2012, the Settlement Administrator must provide the Court  
15          with a declaration specifying due diligence in administering the Notices to Class Members. The  
16          Class Notices provided to Class Members shall be provided in both English and Spanish.

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19          6.       Subject to the Court's consideration of additional evidence regarding the issue of  
20          notice at the Fairness Hearing, and based on the documents submitted and information provided  
21          to the Court in connection with the preliminary approval, the Court approves the proposed plan  
22          for giving notice to the Settlement Class, as described in the Stipulation of Settlement. The plan  
23          for giving notice, in form, method, and content, fully complies with the requirements of Rule 23  
24          and due process, constitutes the best notice practicable under the circumstances, and is due and  
25          sufficient notice to all persons entitled thereto. The Court hereby directs the Parties and  
26          Settlement Administrator to mail the Notice to all Class Members no later than March 28, 2012.

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28          7.       All persons who meet the definition of the Settlement Class and who wish to

1 exclude themselves from the Settlement Class must submit their request for exclusion in writing,  
2 no later than May 14, 2012, stating the Class Member has decided not to participate in the  
3 Settlement, and desires to be excluded from the California Class. The request for exclusion must  
4 state the Class Member's full name, address, telephone number, Social Security number, and the  
5 approximate dates of employment in California by Defendant. The request must be mailed to the  
6 Settlement Administrator by First Class U.S. Mail, or the equivalent. A request for exclusion  
7 that is postmarked after the deadline will be considered invalid, and rejected by the Settlement  
8 Administrator. The Settlement Administrator shall forward copies of all requests for exclusion  
9 and W-9 forms to Settlement Class Counsel and counsel for Ruiz no later than May 24, 2012.  
10 Any person who submits a valid request for exclusion is, upon receipt, no longer a member of  
11 the Settlement Class, is not entitled to participate in the Settlement, and is barred from objecting  
12 to the Settlement. If Ruiz elects to reject the Settlement because 5% or more of the Class  
13 Members opt out of the Settlement Class, then it must do so no later than June 4, 2012.

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16 8. Any member of the Settlement Class may object to the terms of the Settlement,  
17 provided, however, that all objections must be in writing and filed with a notice of intention to  
18 appear at the final approval hearing. Any written objection must state each specific reason in  
19 support of the Class Member's objection and any legal support for each objection. The objection  
20 must include the Class Member's name, address, date of birth, and the dates of employment in  
21 California by Ruiz. Objections are only valid if they are filed with the Court and delivered to  
22 each of the Parties' attorneys no later than May 14, 2012.

23  
24 9. Settlement Award checks will be mailed to Class Members within forty-five days  
25 after the Settlement becomes final and effective under the Stipulation of Settlement, or in the  
26 event an appeal is filed, then the day after the appeal is dismissed or withdrawn, or the appeal is  
27 decided upholding propriety of the Settlement (unless Defendant requests and Class Counsel  
28

1 agrees to additional time, which agreement will not be unreasonably withheld).

2 10. All Settlement Award checks issued to Class Members shall contain, on the back  
3 of the check, the following language which shall be the opt-in consent required by the FLSA:  
4 “By endorsing this check, I consent to join the Class in *Franco, et. Al. v. Ruiz Food Products,*  
5 *Inc.*, elect to participate in the Settlement, and agree to release all of my claims that are covered  
6 by the Settlement.” Class Members must only cash one Settlement Award check to opt-in to the  
7 Class. Any checks that are un-cashed will be paid by Defendant to Ruiz 4 Kids and Chicana  
8 Latina Foundation. Declarations from the Settlement Administrator of proof of payments, and a  
9 list of all persons who have cashed a Settlement Award check, will be filed with the Court 120  
10 calendar days after Settlement Award checks are issues. Such declarations shall be provided to  
11 Class Counsel and Defendant’s Counsel.  
12

13 11. Throughout the settlement process, each Class Member forever agrees he/she  
14 shall not be entitled to pursue, accept or recover damages for any Released Claims against the  
15 Released Parties, as defined in the Stipulation of Settlement from December 15, 2006 through  
16 and including the date of final approval of the Settlement.  
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18 12. Pursuant to the agreement of the parties, the Court sets forth the following  
19 implementation schedule for further proceedings:  
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Timing	Event
March 7, 2012	Last date for Defendant to provide to Settlement Administrator a database for all Class Members, including names, last known address, Social Security numbers, and individual work weeks
March 28, 2012	Last day for Settlement Administrator to mail the Notice of Settlement to Class Members
May 14, 2012	Last day for Class Members to submit a Request for Exclusion form

Timing	Event
May 24, 2012	Last day for Settlement Administrator to provide all Counsel copies of all Request for Exclusion forms and a W-9 form
June 4, 2012	Last day for Defendant to reject the Settlement based on 5% or more of Class Members opting out
July 5, 2012	Last day for filing and service of moving papers in support of Final Settlement Approval and Request for Attorneys' Fees and Costs
July 20, 2012	Last day for Class Counsel to provide the Court with a declaration by Settlement Administrator re: due diligence undertaken with regard to the mailing of the Notice of Class Settlement
August 1, 2012	Final Settlement Approval Hearing at 9:30 a.m. in Courtroom 7 before Magistrate Judge Sheila K. Oberto

13. The parties are also ordered to file a Spanish-language version of the Notice of Class Settlement, including a Certification from a Translator attesting that the Spanish-language version is a true and correct copy of the English-language version. The parties should file the Spanish-language version as soon as practicable, and by no later than March 28, 2012, the last day for Settlement Administrator to mail the Notice of Settlement to Class Members.

IT IS SO ORDERED.

Dated: February 9, 2012

/s/ Sheila K. Oberto  
UNITED STATES MAGISTRATE JUDGE