

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Chief Judge Marcia S. Krieger**

Civil Action No. 14-cv-01785-MSK-MJW

JUANA ARMIJO, and those similarly situated,

Plaintiff,

v.

**STAR FARMS, INC.; and
ANGELO PALOMBO,**

Defendants.

**ORDER ON JOINT MOTION FOR PRELIMINARY APPROVAL OF
COLLECTIVE AND CLASS ACTION SETTLEMENT**

This MATTER comes before the Court on the parties' Joint Motion for Preliminary Approval of Proposed 29 U.S.C. § 216(b) Collective and Fed. R. Civ.P. 23 Class Action Settlement (#72) and the Plaintiff's Supplement to Joint Motion for Preliminary Approval of Proposed 29 U.S.C. § 216(b) and Fed. R. Civ. P. 23 Class Action Settlement (#78).

Plaintiffs in this case are migrant farm workers who were employed by Defendants Star Farms, Inc. and Angelo Palombo (collectively, "Star Farms"). The named Plaintiffs, Ms. Juana Armijo and Mr. Apolinar Valenzuela Ramos, brought a collective action under 29 U.S.C. § 216(b) for violations of the Fair Labor Standards Act (FLSA) and a class action under Fed. R. Civ. P. 23(e)(1)(B) for violations of the Agricultural Worker's Protection Act (AWPA) on behalf of themselves and others similarly-situated.

After a settlement conference with the Magistrate Judge, the Plaintiffs and Star Farms reached an agreement whereby Star Farms would make a series of payments into a fund to be

distributed incrementally to putative class members who file a claim.

In the Joint Motion for Preliminary Approval, the parties requested the Court certify this matter as an FLSA collective action, and the parties sought a Court order approving the Settlement Agreement (#72-1), as well as their Proposed Notice Form (#72-2), Claim Form (#72-3), and Opt-Out Form (#72-4). Upon reviewing the parties' submissions, the Court set a hearing to address concerns with the Proposed Notice and objections procedures. At the hearing, the Court granted certification as a Rule 23 class action (#75). As for designation as an FLSA collective action, the Court temporarily denied the motion and directed the parties to file a Supplement to the Joint Motion for Preliminary Approval. After review of the Supplement to the Motion, the Court **GRANTS** the Joint Motion for Preliminary Approval subject to the following conditions.

The Court finds that a sufficient showing has been made to designate this action as an FLSA collective action. The Court finds that the putative collective action members are similarly-situated, and, having reviewed the Settlement Agreement, believes it is the product of informed negotiations, does not treat certain putative members preferentially, and has no remaining obvious inadequacies. The Court is likewise satisfied that the Notice, Claim Form, and Opt-Out form are sufficient (#78-1, 78-2, 78-3) and Plaintiffs may distribute the Notice by the means proposed in the Supplement to the Joint Motion for Preliminary Approval. **A copy of this Order shall be included with the Notice.** By this Order, the Court adopts and incorporates the following deadlines proposed by the parties:

<u>Deadline</u>	<u>Event</u>
Within twenty-one (21) calendar days of the Preliminary Approval Date	Defendants will provide to the Settlement Administrator a list, in electronic form, of the names, last known addresses, and Social Security numbers (if known) of all putative Settlement Class members during the applicable class period. Defendants shall also provide a copy of this information to Plaintiffs' counsel.
Within thirty-five (35) calendar days of the Preliminary Approval Date.	Plaintiffs will supply the Settlement Administrator with a list of the minimum amounts due to each Settlement Class Member.
Within fifty-six (56) calendar days of the preliminary approval date.	The Settlement Administrator shall mail notice of this Settlement to all putative Settlement Class Members by first-class mail in the form approved by the Court.
Within twenty-eight (28) calendar days after June 1, 2016	The Settlement Administrator shall place an ad in the legal notices section of El Semanario newspaper consisting of a summary of the Class Notice and Plaintiffs' counsel's contact information. This notice shall run for at least two weeks.
November 4, 2016	Any opt-outs and claims must be post-marked or received by the Settlement Administrator.
November 4, 2016	Any objections must be post-marked or received by the Court or the Settlement Administrator.
On or before December 1, 2016	The Settlement Administrator shall report to the Parties concerning the identity of each potential Settlement Class Member who has filed a claim, each who has objected, and each who has opted out.
Within twenty-one (21) calendar days of the receipt of the Settlement Administrator report	The parties shall file a Joint Motion with the Court for Final Approval of the Settlement and to confirm the date of a Final Fairness Hearing.
After January 1, 2017	Suggested date for Final Approval and Fairness Hearing

The Court hereby **GRANTS** the Joint Motion for Preliminary Approval of Proposed Class Action Settlement (#72) and Supplement to the Joint Motion for Preliminary Approval (#78) subject to any conditions set forth in this Order.

DATED this 9th day of February, 2016.

BY THE COURT:

A handwritten signature in black ink, reading "Marcia S. Krieger", written in a cursive style. The signature is positioned above a horizontal line.

Marcia S. Krieger
United States District Court