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CLERK OF THE SUPERIOR COURT

BY  DEPUTY

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Attorneys for PLAINTIFF

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF MERCED

ARCELIA OCHOA, an individual, on behalf of
herself and on behalf of all persons similarly
situated,

Plaintiff,

v.

MARCOS RENTERIA AG SERVICES, INC., a
California corporation; FOSTER POULTRY
FARMS, LLC, a California limited liability
company, previously named as fictitious DOE 1;
and DOES 2-50, Inclusive,

Defendants.

Case No. 22CV-04217

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

Date: March 4, 2025

Time: 8:15 a.m.

Judge: Hon. Mark Bacciarini

Dept.: 8

1 **TO ALL PARTIES AND THEIR RESPECTIVE COUNSEL OF RECORD:**

2 This matter having come before the Honorable Mark Bacciarini of the Superior Court of the State
3 of California, in and for the County of Merced, with the attorneys from the JCL Law Firm, APC and
4 Zakay Law Group, APLC as counsel for Plaintiff ARCELIA OCHOA (“Plaintiff”), and counsel from
5 Littler Mendelson, P.C. appearing for Defendant MARCOS ENTERIA AG SERVICES, INC.,
6 (“Defendant”). The Court, having carefully considered the briefs, argument of counsel and all the
7 matters presented to the Court, and good cause appearing, hereby GRANTS Plaintiff’s Motion for
8 Preliminary Approval of Class Action Settlement.

9 **IT IS HEREBY ORDERED:**

10 1. The Court preliminarily approves the Stipulation of Settlement of Class Action Claims
11 and Release of Claims (“Settlement Agreement” or “Agreement”) a true and correct copy of which is
12 attached hereto to the Declaration of Jean-Claude Lapuyade, Esq. as Exhibit “1”. This is based on the
13 Court’s determination that the Settlement Agreement is within the range of possible final approval,
14 pursuant to the provisions of Section 382 of the California Code of Civil Procedure and California Rules
15 of Court, rule 3.769.

16 2. This Order incorporates by reference the definitions in the Agreement, and all terms
17 defined therein shall have the same meaning in this Order as set forth in the Agreement.

18 3. Subject to the terms of the Settlement Agreement, the Gross Settlement Amount that
19 Defendants shall pay is Seven Hundred Thousand Dollars and Zero Cents (\$700,000.00). It appears to
20 the Court on a preliminary basis that the settlement amount and terms are fair, adequate, and reasonable
21 as to all potential Class Members when balanced against the probable outcome of further litigation
22 relating to certification, liability, and damages issues. It further appears that investigation and research
23 have been conducted such that counsel for the Parties are able to reasonably evaluate their respective
24 positions. It further appears to the Court that settlement at this time will avoid substantial additional
25 costs by all Parties, as well as avoid the delay and risks that would be presented by the further prosecution
26 of the litigation. It further appears that the Settlement has been reached as the result of intensive, serious,
27 and non-collusive arms-length negotiations.

28 4. The Court preliminarily finds that the Settlement appears to be within the range of

1 reasonably of a settlement that could ultimately be given final approval by this Court. The Court has
2 reviewed the monetary recovery that is being granted as part of the Settlement and preliminarily finds
3 that the monetary settlement awards made available to the Class Members are fair, adequate, and
4 reasonable when balanced against the probable outcome of further litigation relating to certification,
5 liability, and damages issues.

6 5. The Agreement specifies for Attorneys' Fees awarded to Class Counsel in the amount of
7 up to one-third of the Gross Settlement Amount, currently estimated to be Two Hundred Thirty-Three
8 Thousand Three Hundred Thirty-Three Dollars and Thirty-Three Cents (\$233,333.33) **and** an award of
9 Attorneys' Expenses not to exceed Thirty Thousand Dollars and Zero Cents (\$30,000.00), and proposed
10 Service Award to the Class Representative, Arcelia Ochoa, in an amount not to exceed Ten Thousand
11 Dollars and Zero Cents (\$10,000.00). While these awards appear to be within the range of
12 reasonableness, the Court will not approve the Attorneys' Fees, Attorneys' Expenses, or the Service
13 Award until the Final Approval Hearing. Class Counsel and the Class Representative will be required
14 to present evidence supporting these requests, including lodestar, prior to final approval.

15 6. The Court recognizes that Plaintiff and Defendants stipulate and agree to certification of
16 a class for settlement purposes only. This stipulation will not be deemed admissible in this or any other
17 proceeding should this Settlement not become final. For settlement purposes only, the Court
18 conditionally certifies the following Class:

19 All non-exempt employees who are or previously were employed by
20 Marcos Renteria AG Services, Inc, who performed work for Foster Poultry
21 Farms, LLC in California during the period from February 1, 2020 to the
22 earlier of December 6, 2023 or through the date in which the total
23 workweeks worked by class members reached 135,000.

24 7. The Court concludes that, for settlement purposes only, the Class meets the requirements
25 for certification under section 382 of the California Code of Civil Procedure in that: (a) the Class
26 Members are ascertainable and so numerous that joinder of all members of the Class Members is
27 impracticable; (b) common questions of law and fact predominate, and there is a well-defined
28 community of interest amongst the Class Members with respect to the subject matter of the litigation;

1 (c) the claims of the Class Representative are typical of the claims of the Class Members; (d) the Class
2 Representative will fairly and adequately protect the interests of the Class Members; (e) a class action
3 is superior to other available methods for the efficient adjudication of this controversy; and (f) Class
4 Counsel are qualified to act as counsel for the Class Representative in her individual capacity and as the
5 representative of the Class Members.

6 8. The Court provisionally appoints plaintiff Arcelia Ochoa as the representative of the Class
7 Members.

8 9. The Court provisionally appoints the attorneys of the JCL LAW FIRM, APC, and of
9 ZAKAY LAW GROUP, APLC, as Class Counsel for the Class Members.

10 10. The Court hereby approves, as to form and content, the proposed Notice Packet attached
11 to the Agreement as **Exhibit "A"**. The Court finds that the Notice Packet appears to fully, and accurately
12 inform the Class Members of all material elements of the proposed Settlement, including Class
13 Members' right to be excluded from the Class by submitting a written request for exclusion, and of each
14 Class Member's right and opportunity to object to the Settlement. The Court further finds that the
15 distribution of the Notice Packet substantially in the manner and form set forth in the Agreement and
16 this Order meets the requirements of due process, is the most reasonable notice under the circumstances,
17 and shall constitute due and sufficient notice to all persons entitled thereto. The Court orders the mailing
18 of the Notice Packet by first class mail, pursuant to the terms set forth in the Agreement.

19 11. The Court hereby appoints Apex Class Action LLC as Settlement Administrator. Within
20 ten (10) business days of this order, Defendants shall provide, to the Settlement Administrator the Class
21 Data, including information regarding Class Members that Defendants will in good faith compile from
22 their records, including each Settlement Class Member's full name; last known address; Social Security
23 Number; start dates and end dates of employment. No later than twenty-one (21) calendar days after the
24 entry of this order, the Settlement Administrator shall mail the Notice Packet to all identified, potential
25 Class Members via first class U.S. Mail using the most current mailing address information available.

26 12. The Court hereby preliminarily approves the proposed procedure for exclusion from the
27 Settlement of the Released Claims. Any Class Member may individually choose to opt out of and be
28 excluded from the Settlement of the Released Claims as provided in the Notice Packet by following the

1 instructions for requesting exclusion from the Settlement of the Released Claims that are set forth in the
2 Notice. All requests for exclusion must be postmarked or received by the Response Deadline which is
3 forty-five (45) calendar days after the date the Notice Packet is mailed to the Class Members or, in the
4 case of a re-mailed Notice, not more than fifteen (15) calendar days after the original Response Deadline.
5 Any such person who chooses to opt out of and be excluded from the Settlement of the Released Claims
6 will not be entitled to an Individual Settlement Payment under the Settlement and will not be bound by
7 the Settlement, or have any right to object, appeal or comment thereon. Class Members who have not
8 requested exclusion shall be bound by all determinations of the Court, the Agreement and Judgment. A
9 request for exclusion may only opt out that particular individual, and any attempt to affect an opt-out of
10 a group, class, or subclass of individuals is not permitted and will be deemed invalid.

11 13. Any Class Member who has not opted out may appear at the final approval hearing and
12 may object or express the Class Member's views regarding the Settlement and may present evidence and
13 file briefs or other papers that may be proper and relevant to the issues to be heard and determined by
14 the Court as provided in the Notice. Class Members will have forty-five (45) days from the date the
15 Settlement Administrator mails the Notice Packets to postmark their written objections to the Settlement
16 Administrator.

17 14. A final approval hearing shall be held before this Court on **March 4, 2025 8:15 AM** in
18 Department 8 of the Merced County Superior Court to determine all necessary matters concerning the
19 Settlement, including: whether the proposed settlement of the Action on the terms and conditions
20 provided for in the Agreement is fair, adequate and reasonable and should be finally approved by the
21 Court; whether an Order Granting Final Approval should be entered herein; whether the plan of
22 allocation contained in the Agreement should be approved as fair, adequate and reasonable to the Class
23 Members; and to finally approve the Attorneys' Fees, Attorneys' Expenses, Service Award, and the
24 Claims Administration Expenses. All papers in support of the motion for final approval and the motion
25 for Attorneys' Fees, Attorneys' Expenses and Service Award shall be filed with the Court and served
26 on all counsel no later than sixteen (16) court days before the hearing.

27 15. Neither the Settlement nor any exhibit, document, or instrument delivered thereunder shall
28 be construed as a concession or admission by Defendants in any way, and shall not be used as evidence

1 of, or used against Defendants as, an admission or indication in any way, including with respect to any
2 claim of any liability, wrongdoing, fault or omission by Defendants or with respect to the truth of any
3 allegation asserted by any person. Whether or not the Settlement is finally approved, neither the
4 Settlement, nor any exhibit, document, statement, proceeding or conduct related to the Settlement, nor
5 any reports or accounts thereof, shall in any event be construed as, offered or admitted in evidence as,
6 received as or deemed to be evidence for any purpose adverse to the Defendants, including, but not
7 limited to, evidence of a presumption, concession, indication or admission by Defendants of any
8 liability, fault, wrongdoing, omission, concession or damage.

9 16. In the event the Settlement does not become effective in accordance with the terms of the
10 Agreement, or the Settlement is not finally approved, or is terminated, canceled, or fails to become
11 effective for any reason, this Order shall be rendered null and void and shall be vacated, and the Parties
12 shall revert to their respective positions as of before entering into the Agreement. In such an event, the
13 Court's orders regarding the Settlement, including this Preliminary Approval Order, shall not be used,
14 or referred to in litigation for any purpose. Nothing in this paragraph is intended to alter the terms of the
15 Settlement Agreement with respect to the effect of the Settlement Agreement if it is not approved.

16 17. The Court reserves the right to adjourn or continue the date of the final approval hearing
17 and all dates provided for in the Agreement without further notice to Class Members and retains
18 jurisdiction to consider all further applications arising out of or connected with the proposed Settlement.
19

20 IT IS SO ORDERED.

21 Dated: 3/4/2025

22 
23 _____
24 JUDGE OF THE SUPERIOR COURT
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