

FILED
KING COUNTY, WASHINGTON

MAR 05 2018

SUPERIOR COURT CLERK
BY Tonja Hutchinson
DEPUTY

THE HONORABLE SAMUEL S. CHUNG
Noting Date: March 2, 2018, 11:00 a.m.
(Continued by Court from February 23, 2018)

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SUPERIOR COURT OF THE STATE OF WASHINGTON FOR KING COUNTY

ALBERT VIESSE, on behalf of himself and
all others similarly situated,

Plaintiff,

v.

SAAR'S INC., and DOES 1 through 100,
inclusive,

Defendants.

Case No. 17-2-07783-6 SEA

~~PROPOSED~~ ORDER GRANTING MOTION
FOR FINAL APPROVAL OF CLASS
ACTION SETTLEMENT AND JUDGMENT

1 On November 2, 2017, the Court entered an Order granting Plaintiff's Motion For
2 Preliminary Approval Of Class Action Settlement.

3 On January 22, 2018, Plaintiff filed a Motion For Final Approval Of Class Action
4 Settlement.

5 On January 22, 2018, Plaintiff also filed a Motion For Award Of Attorneys' Fees And
6 Costs To Class Counsel And Incentive Payment To The Class Representative.

7 The Court held a fairness (final approval) hearing on March 2, 2018.

8 Having duly considered all submissions and arguments presented, IT IS HEREBY
9 ORDERED AND ADJUDGED AS FOLLOWS:¹

10 1. The Court hereby grants final approval of the proposed settlement upon the terms
11 and conditions set forth in the Agreement. The Court finds that the terms of the proposed
12 settlement are fair, adequate and reasonable and comply with Washington State Superior Court
13 Civil Rules ("CR") 23 and, to the extent applicable, Federal Rules of Civil Procedure ("FRCP")
14 Rule 23.

15 2. The Court orders that the following settlement class ("Settlement Class") is
16 certified for settlement purposes only:

17 "All consumers to whom Saar's, during the period July 20, 2014 through July 18,
18 2016, provided an electronically printed receipt at the point of a credit sale or
19 transaction at any of its Saar's or Super Saver Foods stores, on which receipt Saar's
20 printed the expiration date of the consumer's credit card or debit card." The specific
21 Saar's and Super Saver Foods stores (collectively the "Saar's Stores") are as follows:

- 22 i. Super Saver Foods
23 1702 Auburn Way North,
24 Auburn, WA 98002;
- 25 ii. Saar's
26 32199 State Route 20
27 Oak Harbor, WA 98277;
- 28 iii. Saar's Super Saver Food
3208 NE Sunset Blvd.
Renton, WA 98056;

¹ Unless indicated otherwise, capitalized terms in this Order shall have the same meanings as in the Stipulated Settlement Agreement and Release ("Settlement" or "Agreement"), entered into between plaintiff Albert Viesse ("Viesse" or "Plaintiff"), on behalf of himself and all others similarly situated, defendant Saar's Inc. ("Saar's"), and their counsel of record.

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2 iv. Super Saver Foods
 10616 16th Ave. SW
 Seattle, WA 98146;
3
4 v. Saar's
 13322 Pacific Ave.
 Tacoma, WA 98444;
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6 vi. Super Saver Foods
 3725 South 144th St.
 Tukwila, WA 98168.

7 3. The Court finds that, for purposes of the Settlement, the above-defined Settlement
8 Class meets all of the requirements for class certification. The Court further finds that, for
9 purposes of the Settlement, the requirements of CR 23 and, to the extent applicable, FRCP 23 are
10 satisfied, and that (a) the Settlement Class is ascertainable, (b) the members of the Settlement
11 Class are so numerous that joinder is impracticable, (c) there are questions of law and fact
12 common to the Settlement Class members which predominate over any individual questions, (d)
13 the representative Plaintiff's claims are typical of the claims of the Settlement Class members, (e)
14 the Class Representative and Class Counsel have fairly, adequately, reasonably and competently
15 represented and protected the interests of the Settlement Class, and (f) a class action is superior to
16 other available methods for the fair and efficient adjudication of the controversy.

17 4. The Court appoints Plaintiff Albert Viesse as the Class Representative for the
18 Settlement Class.

19 5. The Court appoints attorneys Chant Yedalian of Chant & Company A Professional
20 Law Corporation and James A. Sturdevant as Class Counsel for the Settlement Class.

21 6. The Court appoints JND Legal Administration as the Settlement Administrator.

22 7. The Court finds that the Settlement is the product of serious, informed, non-
23 collusive negotiations conducted at arm's-length by the Parties. In making these findings, the
24 Court considered, among other factors, the potential statutory damages claimed in the lawsuit on
25 behalf of Plaintiff and members of the Settlement Class, Defendant's potential liability, the risks of
26 continued litigation including trial outcome, delay and potential appeals, the substantial benefits
27 available to the Settlement Class as a result of the Settlement, and the fact that the proposed
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1 Settlement represents a compromise of the Parties' respective positions rather than the result of a
2 finding of liability at trial. The Court further finds that the terms of the Settlement have no
3 obvious deficiencies and do not improperly grant preferential treatment to any individual member
4 of the Settlement Class.

5 8. The Court finds that the notice that has been provided to Settlement Class
6 members, as well as the means by which it was provided, all of which the Court previously
7 approved, constitutes the best notice practicable under the circumstances and is in full compliance
8 with the United States Constitution, CR 23, to the extent applicable, FRCP Rule 23, and the
9 requirements of due process. The Court further finds that the notice fully and accurately informed
10 Settlement Class members of all material elements of the lawsuit and proposed class action
11 Settlement, of each member's right to be excluded from the Settlement, and each member's right
12 and opportunity to object to the proposed class action Settlement and be heard at the fairness (final
13 approval) hearing.

14 9. The Court finds that the manner and content of the notice of Settlement has been
15 complied with in conformity with this Court's previous Orders.

16 10. The Court finds that zero Settlement Class members have timely requested
17 exclusion from the Settlement.

18 11. The Court finds that zero Settlement Class members have timely objected to the
19 Settlement.

20 12. The Court finds that zero Settlement Class members have timely requested to
21 appear or be heard at the fairness (final approval) hearing.

22 13. All Settlement Class members who did not timely exclude themselves from the
23 Settlement are bound by the Agreement, including the release contained in paragraph 19 of the
24 Agreement.

25 14. The Court hereby directs the Parties and Settlement Administrator to effectuate all
26 terms of the Settlement.

1 15. The Court finds that the \$650 hourly rate of Class Counsel Chant Yedalian, and the
2 \$400 hourly rate of Class Counsel James A. Sturdevant, are reasonable based upon each of their
3 respective qualifications, skills and experience.

4 16. The Court hereby awards \$140,000 in reasonable attorneys' fees and costs to Class
5 Counsel (to be allocated among Class Counsel according to Class Counsel's existing agreement
6 with one another). Defendant Saar's shall make payment of this award to Class Counsel pursuant
7 to the terms of the Agreement. * See Addendum

8 17. The Court hereby awards \$5,000 to the Class Representative, Albert Viesse, as an
9 incentive (service) award to compensate him for his service as the representative of the Settlement
10 Class. Defendant Saar's shall make payment of this award to the Class Representative pursuant to
11 the terms of the Agreement.

12 18. Each of the Parties is to bear its own fees and costs except as expressly provided in
13 the Agreement or in the Court's order(s) on Motion For Award Of Attorneys' Fees And Costs To
14 Class Counsel And Incentive Payment To The Class Representative.

15 19. Any and all *cy pres* distribution of Gift Cards shall be distributed, in equal shares,
16 to the following non-profit foodbanks:

17 **White Center Super Saver Foods #530**

18 White Center Emergency Food Association
19 10829 8th Avenue SW, Seattle, WA 98146
20 FED EIN: 91-1167830 (Exempt 501(c)(3))

21 **Oak Harbor Super Saver Foods #610**

22 North Whidbey Help House
23 1091 SE Hathaway St., Oak Harbor, WA 98277
24 FED EIN: 91-1003975 (Exempt 501(c)(3))

25 **Lake Stevens Super Saver Foods #628**

26 Lake Stevens Community Food Bank Association
27 2111 117th Ave. NE
28 Lake Stevens, WA 98258
 FED EIN: 91-1215080 (Exempt 501(c)(3))

Auburn Super Saver Foods #622

 Auburn Food Bank
 930 18th Place NE, Auburn, WA 98002

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FED EIN: 91-1215485 (Exempt 501(c)(3))

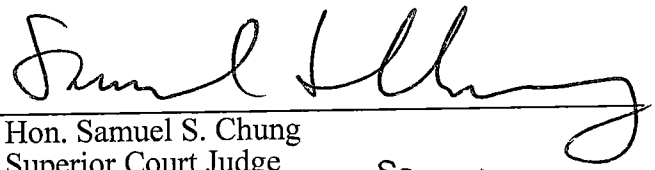
Bremerton Super Saver Foods #626
Bremerton Food Line
1600 12th St , Bremerton, WA 98337
FED EIN: 91-1111086 (Exempt 501(c)(3))

Parkland Market Place #488
Nourish Pierce County (Nourish Mobile Food Bank)
1702 South 72nd St, Suite E, Tacoma, WA 98408
FED EIN: 91-1198391 (Exempt 501(c)(3))

20. The Court hereby enters this Order as a judgment, provided however, that without affecting the finality of the Settlement or judgment entered herein, the Court shall retain continuing jurisdiction to interpret, implement and enforce the Settlement, and all orders and judgment entered in connection therewith.

IT IS SO ORDERED.

Dated: 3/5/18

By: 
Hon. Samuel S. Chung
Superior Court Judge
Samuel S. Chung

Addendum to the Order Granting Motion for Final Approval of Class Action Settlement and Judgment

The trial court determines a reasonable fee by calculation the Lodestar figure, which is the market value of the attorney's services calculated by multiplying the amount of hours reasonably expended in the litigation by the reasonable rate of compensation. *Perry v. Costco Wholesale, Inc.*, 123 Wn. App. 783, 98 P.3d 1264 (2004). The Lodestar figure represents the presumptively reasonable amount of the prevailing party's attorney's fees. See *Gracie v. Gracie*, 217 F. 3d 1060, 1070 (9th Cir. 2000).

Up to January 22, 2018, Class Counsel Mr. Chant Yedalian has spent 189.33 hours of his time of this matter and Mr. James Sturdevant has spent 51.55 hours. Each expect to spend additional 15 and 5 hours. The Court has reviewed all of the different tasks performed by Class Counsel which were submitted for in camera review. The hours worked were reasonable to accomplish the tasks.

Mr. Yedalian's current hourly rate is \$650 and Mr. Sturdevant's current rate is \$400. These rates are supported by their skills and experience in Seattle, especially in a class action case where specialized learning and experience are required.

The total Lodestar fees equals \$155,434.50.

By 
Samuel S. Chung