IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CIVIL ACTION NO. 2:23-cv-01073-GAM

ELIZABETH W. WILSON, individually and on behalf of all others similarly situated,

Plaintiff,

v.

MOM'S ORGANIC HOLDING CO. d/b/a MOM'S ORGANIC MARKET, and MOM'S ORGANIC MARKET, INC.,

Defendants.

FINAL APPROVAL ORDER AND JUDGMENT

A final fairness hearing was held on October 7, 2024, on a proposed Settlement (the "Settlement") of this class action (the "Action"), which had been preliminarily certified for settlement purposes. Based upon that hearing and the submissions of counsel, it is hereby **ORDERED** as follows:

Except as otherwise defined herein, all capitalized terms used in this Final Order and Judgment shall have the same meanings as ascribed to them in the Settlement Agreement executed on May 6, 2024 (the "Settlement Agreement).

- 1. This Court has jurisdiction over the subject matter of the Action and over all Parties to this Action, including the Settlement Class Members.
- 2. The Court hereby approves the maintenance of the Action as a class action pursuant to Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure. The Settlement Class is defined as:

All participants and beneficiaries in the Defendants' Plan who were not sent a COBRA Notice by Defendants during the Class Period as a result of a qualifying event, as determined by Defendants' records, and did not elect continuation coverage.

The "Class Period" is defined as March 20, 2021 through March 20, 2023.

- 3. Pursuant to Federal Rule of Civil Procedure 23(g), the Court hereby confirms its prior appointment of Named Plaintiff Elizabeth W. Wilson as Class Representative for the Settlement Class and Edelson Lechtzin LLP, as Class Counsel for the Settlement Class.
- 4. The Court hereby finds that the Settlement Class has received proper and adequate notice of the Settlement, the Fairness Hearing, Class Counsel's application for attorneys' fees and reimbursement of litigation costs and for a general release payment to the Named Plaintiff, and the right of Class Members to be excluded from the Settlement, such notice having been given in accordance with the Preliminary Approval Order. Such notice included individual notice to all Settlement Class Members who could be identified through reasonable efforts, as well as notice through a dedicated Settlement website on the internet, and provided valid, due, and sufficient notice of these proceedings and of the matters set forth in this Order, and included sufficient information regarding the procedure for the making of objections and the right of Class Members to be excluded from the Settlement. Such notice constitutes the best notice practicable under the circumstances and fully satisfies the requirements of FED. R. CIV. P. 23 and the requirements of due process.
- 5. The Court hereby approves the Settlement and orders that the Settlement shall be consummated and implemented in accordance with its terms and conditions.
- 6. Pursuant to FED. R. CIV. P. 23(e), the Court finds that the Settlement embodied in the Settlement Agreement is fair, reasonable and adequate, and more particularly finds that the *Girsh* factors are satisfied. Specifically, the as set forth on the record at the fairness hearing, the

Court finds that (a) continued litigation would be complex, expensive, and lengthy; (b) the stage of the proceedings and the amount of discovery conducted allowed Class Counsel to obtain sufficient information to adequately evaluate the merits of the case; (c) there are risks of establishing liability and remedies and maintaining the class action through trial; (d) the Settlement falls within the range of reasonableness in light of the best possible recovery and all attendant risks of litigation; and (e) the reaction of the Class to the Settlement is more than favorable.

- 7. The Settlement is fully approved as fair, reasonable and adequate as to, and in the best interests of the Named Plaintiff and members of the Class. Named Plaintiff, Defendants, and members of the Class are hereby directed to implement and consummate the Settlement Agreement according to its terms and provisions.
- 8. The Plan of Allocation is finally approved as fair, reasonable, and adequate. The Settlement Administrator shall distribute the Net Settlement Proceeds in accordance with the Plan of Allocation and the Settlement Agreement. The Settlement Administrator shall have final authority to determine the share of the Net Settlement Proceeds to be allocated to each Class Member in accordance with the Plan of Allocation approved by the Court.
- 9. All requirements of the Class Action Fairness Act, 28 U.S.C. § 1711, et seq., have been met.
- 10. The litigation expenses incurred by Class Counsel while prosecuting this action are reasonable. Accordingly, Class Counsel is awarded expenses in the amount of \$627, to be paid from the Gross Settlement. The attorney's fees sought by Class Counsel in the amount of twenty-five percent (25 %) of the estimated Net Settlement Proceeds established in this Action are reasonable. Accordingly, Class Counsel is awarded attorneys' fees in the amount of twenty-five

percent (25%) of the estimated Net Settlement Proceeds established in this Action, specifically \$78,881.31.

- 11. The Court approves a general release payment of \$2,500 to the Named Plaintiff.
- 12. Class Counsel's attorneys' fees and Named Plaintiff's general release payment shall be paid pursuant to the timing requirements described in the Settlement Agreement.
- The releases and covenants not to sue set forth in the Settlement Agreement, 13. together with the definitions contained in the Settlement Agreement relating thereto, are expressly incorporated herein in all respects. The Releases are effective as of the Effective Date. Accordingly, the Court orders that, as of the Effective Date, the Named Plaintiff, and all Settlement Class Members and each of the foregoing's attorneys, agents, spouses, parents, children, beneficiaries, heirs, assigns, and dependents who have not opted out of the Settlement Class shall fully and forever release, waive, acquit, and discharge Defendants and each of the Released Parties from all Released Claims, regardless of whether or not Named Plaintiff and such Settlement Class Members have received a monetary benefit from the Settlement, and regardless of whether or not such Class Members have actually received the Settlement Notice, filed an objection to the Settlement or to any application by Class Counsel for an award of attorneys' fees and expenses, and whether or not the objections or claims for distribution of such Class Members have been approved or allowed. No individual claims by Class Members for benefits under ERISA are subject to this waiver except to the extent the claim for benefits or disputed benefits relate to the alleged failure to receive a proper COBRA Notice. Similarly, no ERISA breach of fiduciary duty claims beyond those arising out of the facts alleged in the Complaint are released.
- 14. Class Counsel, Named Plaintiff and/or the Settlement Class Members may hereafter discover facts in addition to or different from those that they know or believe to be true

with respect to the Released Claims. Such facts, if known by them, might have affected the decision to settle with the Released Parties, or the decision to release, relinquish, waive, and discharge the Released Claims, or the decision of a Settlement Class Member not to object to the Settlement. Notwithstanding the foregoing, each Settlement Class Member shall expressly, upon the entry of this Final Approval Order, be deemed to have, and, by operation of this Order, shall have, fully, finally, and forever settled, released, relinquished, waived, and discharged any and all Released Claims. The Named Plaintiff and the Settlement Class Members acknowledge and shall be deemed by operation of this Final Approval Order to have acknowledged that the foregoing waiver was bargained for separately and is a key element of the Settlement embodied in this Settlement Agreement of which this release is a part.

15. Named Plaintiff and each Settlement Class Member hereby stipulate and agree with respect to any and all Released Claims that, upon entry of this Final Approval Order, the Settlement Class Members shall be conclusively deemed to, and by operation of this Final Approval Order shall, settle, release, relinquish, waive, and discharge any and all rights or benefits they may now have, or in the future may have, under any law relating to the releases of unknown claims, including specifically Section 1542 of the California Civil Code which provides:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

16. Named Plaintiff and the Settlement Class Members shall, upon entry of this Final Approval Order with respect to the Released Claims, waive any and all provisions, rights and benefits conferred by any law or of any State or territory within the United States or any foreign country, or any principle of common law, which is similar, comparable or equivalent in substance to Section 1542 of the California Civil Code.

- 17. In addition to the Released Claims by Class Members above, Named Plaintiff Elizabeth Wilson agrees to release and forever discharge the Released Parties from any and all claims, charges, actions, causes of action, liabilities, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, and judgments, including but not limited to claims under ERISA and/or COBRA or under any employee benefit plan, and any other claims and demands whatsoever, whether known or unknown, in law or equity (i) that they ever had, now have or hereafter may have based in whole or in part on any act or event from the beginning of time until the Effective Date, upon, or by reason of any matter, cause, or thing whatsoever; and/or (ii) that would be barred under claim preclusion or issues preclusion.
- 18. The Settlement Class shall not have any claims against Plaintiff, the Defendants, or counsel to any of the foregoing, including any of the individuals involved in the distribution under the Plan of Allocation, based on any distributions of the Settlement Fund made substantially in accordance with the Settlement Agreement or as authorized by the Court. Neither the Parties nor their respective counsel shall have any liability or responsibility of any sort for filing any tax returns or paying any taxes with respect to the Settlement Account. If any tax liability exists, it is the responsibility of each Settlement Class Member only.
- 19. Within five (5) days after the Effective Date, Plaintiff and Defendants will jointly stipulate to the dismissal with prejudice of the Action.
- 20. The Court shall retain exclusive jurisdiction to protect, preserve, and implement the Settlement Agreement, including, but not limited to, enforcement of the release contained in the Agreement. The Court expressly retains jurisdiction in order to enter such further orders as may

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be necessary or appropriate in administering and implementing the terms and provisions of the

Settlement Agreement.

21. Any motion to enforce this Final Order and Judgment or the Settlement Agreement,

including by way of injunction, may be filed in this Court, and the provisions of the Settlement

Agreement and/or this Final Order or Judgment may also be asserted by way of an affirmative

defense or counterclaim in response to any action that is asserted to violate the Settlement

Agreement.

22. Upon entry of this Order, all Parties, and the Settlement Class Members shall be

bound by the Settlement Agreement and this Final Order and Judgment.

SO ORDERED this 9th day of October, 2024.

/s/ Gerald Austin McHugh
United States District Judge