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SHAYNIA VERNON and BENJAMIN CASTANEDA-RIVERA

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO

SHAYNIA VERNON, as an individual and
on behalf of all others similarly situated;
BENJAMIN CASTANEDA-RIVERA, as
an individual and on behalf of all others
similarly situated,

Plaintiffs,

vs.

MCLANE/SUNEAST, INC., a Texas
corporation; MCLANE FOODSERVICE,
INC., a Texas corporation; and DOES 1
through 50, inclusive,

Defendants.

Case No.: CIVSB2123367

[Assigned for All Purposes to Hon. David Cohn,
Dept. S-26]

**[PROPOSED] ORDER GRANTING
PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

Date: August 30, 2022

Time: 10:00 a.m.

Dept.: S-26

Complaint Filed: August 12, 2021

Trial Date: None Set

1 Plaintiffs Shaynia Vernon and Benjamin Castaneda-Rivera's (together, "Plaintiffs")
2 Motion for Preliminary Approval of Class and Representative Action Settlement was filed with
3 the Court on June 1, 2022, and a hearing was held before this Court on August 30, 2022
4 Plaintiffs and Defendants McLane/Suneast, Inc. and McLane FoodService, Inc. (together,
5 "Defendants") appeared through their respective counsel of record.

6 The Court has considered the Stipulation for Leave to File First Amended Complaint and
7 Settlement and Release of Class Action and PAGA Claims ("Stipulation" or "Settlement
8 Agreement") and all other papers filed in this action.

9 NOW THEREFORE, IT IS HEREBY ORDERED:

10 1. This Court grants preliminary approval of the Settlement Agreement between
11 Plaintiffs and Defendants filed herewith. The Settlement Agreement appears to be fair, adequate,
12 and reasonable to the Class;

13 2. Plaintiffs and Defendant (together, "Parties"), through their counsel of record in
14 the Litigation, have reached an agreement to settle all claims in the Litigation on behalf of the
15 Class (as defined below and in the Settlement Agreement) as a whole;

16 3. The Court hereby conditionally certifies the following Class for settlement
17 purposes only:

18 (i) All current and former non-exempt employees employed by
19 MSE and working in California at any time during the time period
20 from April 6, 2019 through and including October 29, 2020 (the
21 "MSE Settlement Period") who were paid overtime wages at any
time during the MSE Settlement Period ("MSE Subclass"); and

22 (ii) All current and former non-exempt employees employed by
23 MFS and working in California at any time during the time period
24 from January 28, 2019 through and including October 29, 2020
25 (the "MFS Settlement Period") who were paid overtime wages at
any time during the MFS Settlement Period ("MFS Subclass").

26 Expressly excluded from the Class are any individuals who, as of the date of this Order,
27 have filed a pending, separate lawsuit as a named plaintiff, individually and/or as a putative class
28 or representative action, asserting claims based on violations of any of the same statutes and/or

1 regulations as those alleged to have been violated in the Federal Action and/or the State Court
2 Section 226.7 Actions and/or who have released such claims.

3 4. Should for whatever reason the Settlement Agreement not become Final, the fact
4 that the Parties were willing to stipulate to certification of a class as part of the Settlement
5 Agreement shall have no bearing on, or be admissible in connection with, the Litigation or the
6 issue of whether a class should be certified in a non-settlement context.

7 5. The Court appoints and designates: (a) Plaintiffs Shaynia Vernon and Benjamin
8 Castaneda-Rivera as the Class Representatives and (b) Larry W. Lee, Kristen M. Agnew, and
9 Nicholas Rosenthal of Diversity Law Group, P.C. and William L. Marder of Polaris Law Group
10 as Class Counsel for the Class. Class Counsel is authorized to act on behalf of the Class with
11 respect to all acts or consents required by, or which may be given, pursuant to the Settlement
12 Agreement, and such other acts reasonably necessary to finalize the Settlement Agreement and
13 its terms. Any Class Member may enter an appearance through his or her own counsel at such
14 Class Member's own expense. Any Class Member who does not enter an appearance or appear
15 on his or her own behalf will be represented by Class Counsel.

16 6. The Court hereby approves the terms and conditions provided for in the
17 Settlement Agreement. The Court finds that on a preliminary basis the Settlement Agreement
18 falls within the range of reasonableness of a settlement, and appears to be presumptively valid,
19 subject only to any objections that may be raised at the final fairness hearing and final approval
20 by the Court. It appears to the Court on a preliminary basis that the settlement is fair, adequate,
21 and reasonable as to all potential Class Members when balanced against the probable outcome of
22 further litigation relating to liability and damages issues. It also appears that investigation,
23 research, and court proceedings have been conducted so that counsel for the Settling Parties are
24 able to reasonably evaluate their respective positions. It appears to the Court that settlement at
25 this time will avoid substantial additional costs by all Settling Parties, as well as avoid the delay
26 and risks that would be presented by the further prosecution of the Litigation. It also appears that
27 settlement has been reached as a result of intensive, serious, and non-collusive arm's-length
28 negotiations.

1 7. A Final Fairness and Final Approval Hearing on the question of whether the
2 proposed Settlement Agreement, the allocation of payments to Settlement Class Members,
3 attorneys' fees and costs to Class Counsel, settlement administration costs, and the Class
4 Representative Payment should be finally approved as fair, reasonable, and adequate as to the
5 members of the Class is hereby set for _____ at _____ in this Court.

6 8. The Court hereby approves, as to form and content, the Notice of Class Action
7 Settlement ("Class Notice") to be sent to Class Members, which is attached as **Exhibit 1** to the
8 Settlement Agreement. The Court finds that distribution of the Class Notice to Class Members
9 substantially in the manner and form set forth in the Settlement Agreement and this Order meets
10 the requirements of due process and shall constitute due and sufficient notice to all parties
11 entitled thereto.

12 9. The Court appoints and designates Simpluris as the Settlement Administrator. The
13 Court hereby directs the Settlement Administrator to provide the approved Class Notice to Class
14 Members using the procedures set forth in the Settlement Agreement.

15 10. Any Class Member may choose to opt out of and be excluded from the settlement
16 as provided in the Settlement Agreement and Class Notice and by following the instructions to
17 request exclusion. Any person who timely and properly opts out of the settlement will not be
18 bound by the Settlement Agreement or have any right to object, appeal, or comment thereon.
19 Any opt out request must be in writing and signed by each such Class Member opting out and
20 must otherwise comply with the requirements delineated in the Class Notice. Class Members
21 who have not requested exclusion by submitting a valid and timely opt out request, by the opt out
22 deadline, shall be bound by all determinations of the Court, the Settlement Agreement, and
23 Judgment.

24 11. Any Class Member may object to the Settlement Agreement or express his or her
25 views regarding the Settlement Agreement, and may present evidence and file briefs or other
26 papers that may be proper and relevant to the issues to be heard and determined by the Court as
27 provided in the Class Notice.

28 12. The Motion for Final Approval shall be filed by the Class Representative no later

1 than sixteen (16) court days before the Final Fairness and Final Approval Hearing.

2 13. The Court reserves the right to adjourn or continue the date of the Final Fairness
3 and Final Approval Hearing and all dates provided for in the Settlement Agreement without
4 further notice to the Class, and retains jurisdiction to consider all further applications arising out
5 of or connected with the Class Settlement Agreement.

6 IT IS SO ORDERED.

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8 DATED: _____

9 HON. DAVID COHN
10 SUPERIOR COURT OF CALIFORNIA
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