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Attorneys for Plaintiffs  
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  
FINAL APPROVAL OF CLASS AND  
REPRESENTATIVE ACTION  
SETTLEMENT AND JUDGMENT**

Date: December 23, 2022

Time: 10:00 a.m.

Dept.: S-26

Complaint Filed: August 12, 2021

FAC Filed: September 8, 2022

Trial Date: None Set

1 Plaintiffs Shaynia Vernon and Benjamin Castaneda-Rivera (“Plaintiffs”), and Defendants  
2 McLane/Suneast, Inc. and McLane Foodservice, Inc. (“Defendants”) (collectively, the “Parties”)  
3 have entered into the Stipulation for Leave to File First Amended Complaint and Settlement and  
4 Release of Class Action and PAGA Claims (“Settlement Agreement”) to settle the above-  
5 captioned class action subject to the Court’s approval (the “Settlement”).

6 This matter is now before the Court on Plaintiffs’ Motion for Final Approval of Class and  
7 Representative Action Settlement, including approval of the Enhancement Award for Plaintiffs  
8 and Class Counsel’s application for attorneys’ fees and costs. The Court has read, heard, and  
9 considered all the pleadings and documents submitted, and the presentations made in connection  
10 with the Motion which came on for hearing on December 23, 2022.

## 11 **I. BACKGROUND**

12 On September 8, 2022, Plaintiffs filed the operative First Amended Complaint on behalf  
13 of themselves and all similarly situated employees, against Defendants in Superior Court of the  
14 State of California for the County of San Bernardino. The lawsuit alleges (1) individual claims  
15 for violation of Labor Code § 226.7 on behalf of Plaintiffs; (2) individual claims for violation of  
16 Business and Professions Code § 17200, *et seq.* on behalf of Plaintiffs; (3) individual and class  
17 action claims for violation of Labor Code § 226; and (4) representative claims for violation of  
18 Labor Code § 2698, *et seq.*, the Private Attorneys General Act (“PAGA”). The First Amended  
19 Complaint is the operative Complaint (“Complaint”).

### 20 **A. Class Members**

21 The “Class” includes

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

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

1           **B.     Operation of the Settlement**

2           Pursuant to the Preliminary Approval Order dated September 1, 2022, this Court  
3 conditionally certified the Class and granted preliminary approval to the Settlement Agreement.  
4 The Preliminary Approval Order also approved of the proposed forms of notice and notice plan.  
5 The Court entered the Preliminary Approval Order after review and consideration of all of the  
6 pleadings filed in connection herewith, and the oral presentations made by counsel at the hearing.

7           In compliance with the Preliminary Approval Order, the Notice of Class Action  
8 Settlement (“Class Notice”) was sent to all Class Members via first class mail. Follow-up  
9 mailings were sent to three (3) individuals and one (1) Class Notice remains undeliverable. The  
10 notice process was timely completed. The Settlement Administrator received no requests for  
11 exclusion and no objections.

12           This Court finds that the Settlement appears to be the product of serious, informed, non-  
13 collusive negotiations, has no obvious deficiencies, and does not improperly grant preferential  
14 treatment to any individuals. The Court finds that the Settlement was entered into in good faith  
15 pursuant to California Code of Civil Procedure § 877.6. The Court further finds that the  
16 Settlement is fair, reasonable, and adequate and that Plaintiffs have satisfied the standards for  
17 final approval of a class action settlement under California law. Under the provisions of  
18 California Code of Civil Procedure § 382 and Federal Rule of Civil Procedure 23, as approved  
19 for use by the California state court in *Vasquez v. Superior Court*, 4 Cal. 3d 800, 821 (1971), the  
20 trial court has discretion to certify a class where:

21                     [Q]uestions of law or fact common to the members of the class  
22                     predominate over any questions affecting only individual members,  
23                     and that a class action is superior to the available methods for the  
24                     fair and efficient adjudication of the controversy...Fed. R. Civ.  
25                     Proc. 23.

26           Certification of a settlement class is the appropriate judicial device under these  
27 circumstances.

28           Based on the foregoing, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED AS  
FOLLOWS:

1           1.       The Court, for purposes of this Order, adopts all defined terms as set forth in the  
2 Settlement Agreement filed in this case.

3           2.       The Court has jurisdiction over the subject matter of the litigation, the Class  
4 Representatives, the other members of the Settlement Class, and Defendants.

5           3.       The Court finds that the dissemination of the Class Notice, as disseminated by the  
6 appointed Settlement Administrator Simpluris, Inc. to the Class Members, constituted the best  
7 notice practicable under the circumstances to all persons within the definition of the Class, and  
8 fully met the requirements of California law and due process under the United States  
9 Constitution.

10          4.       The Court approves the settlement of the above-captioned action, as set forth in  
11 the Settlement Agreement, as fair, just, reasonable, and adequate as to the Parties. The Parties are  
12 directed to perform in accordance with the terms set forth in the Settlement Agreement.

13          5.       Except as otherwise provided in the Settlement Agreement, the Parties are to bear  
14 their own costs and attorneys' fees.

15          6.       The Court hereby certifies the following Class for settlement purposes only: (i)  
16 All current and former non-exempt employees employed by MSE and working in California at  
17 any time during the time period from April 6, 2019 through and including October 29, 2020 (the  
18 "MSE Settlement Period") who were paid overtime wages at any time during the MSE  
19 Settlement Period ("MSE Subclass"); and (ii) All current and former non-exempt employees  
20 employed by MFS and working in California at any time during the time period from January 28,  
21 2019 through and including October 29, 2020 (the "MFS Settlement Period") who were paid  
22 overtime wages at any time during the MFS Settlement Period ("MFS Subclass").

23          7.       With respect to the Class and for purposes of approving the settlement only and  
24 for no other purpose, this Court finds and concludes that: (a) the members of the Class are  
25 ascertainable and so numerous that joinder of all members is impracticable; (b) there are  
26 questions of law or fact common to the Class, and there is a well-defined community of interest  
27 among members of the Class with respect to the subject matter of the non-exempt claims in the  
28 Litigation; (c) the claims of Class Representatives are typical of the claims of the members of the

1 Class; (d) the Class Representatives have fairly and adequately protected the interests of the  
2 members of the Class; (e) a class action is superior to other available methods for an efficient  
3 adjudication of this controversy; and (f) the counsel of record for the Class Representatives, *i.e.*,  
4 Class Counsel, are qualified to serve as counsel for the Plaintiffs in their individual and  
5 representative capacity and for the Class.

6 8. Defendants remit to the Qualified Settlement Fund account established by the  
7 Settlement Administrator the Gross Settlement Fund of Four Hundred Thousand Dollars  
8 (\$400,000.00), pursuant to the terms of the Settlement Agreement.

9 9. From the Gross Settlement Fund, the Settlement Administrator shall pay:

10 (a) to Class Counsel attorneys' fees in the amount of One Hundred Forty  
11 Thousand Dollars (\$140,000.00) and reimbursement of costs in the amount of Twenty-Three  
12 Thousand One Hundred Ninety-One Dollars and Twelve Cents \$23,191.12;

13 (b) an enhancement award in the amount of Ten Thousand Dollars \$10,000 to  
14 Class Representative Shaynia Vernon, and an enhancement award in the amount of Ten  
15 Thousand Dollars \$10,000 to Class Representative Benjamin Castaneda-Rivera to reimburse  
16 them for their unique services;

17 (c) the sum of Seven Thousand Five Hundred Dollars (\$7,500.00) to the  
18 California Labor and Workforce Development Agency for its seventy-five percent (75%) share  
19 of PAGA penalties; and

20 (d) the sum of Eleven Thousand Nine Hundred Sixty-Eight Dollars  
21 (\$11,968.00) to the Settlement Administrator, Simpluris, Inc., for its fees and costs relating to the  
22 settlement administration process.

23 10. The Court finds that these amounts are fair and reasonable. The Settlement  
24 Administrator is directed to make such payments in accordance with the terms of the Settlement  
25 Agreement.

26 11. The Court approves the Individual Settlement Shares and Aggrieved Employee  
27 Payments, which shall be distributed by the Settlement Administrator pursuant to the terms of  
28 the Settlement Agreement from the Net Settlement Fund, after payment of those amounts set

1 forth in Paragraph 10.

2       12.     The Court hereby enters final judgment in this case in accordance with the terms  
3 of the Settlement, Preliminary Approval Order, and this Order. Without affecting the finality of  
4 the Settlement or Judgment entered, this Court shall retain exclusive and continuing jurisdiction  
5 over the action and the Parties, including all Participating Class Members, for purposes of  
6 enforcing and interpreting this Order and the Settlement.

7       13.     A compliance hearing is set to be held on \_\_\_\_\_, 2023, at \_\_\_\_ a.m. in  
8 Department S-26 of the San Bernardino County Superior Court in order to determine the number  
9 and amount of any uncashed checks that have been distributed to the California State  
10 Controller's Office – Office of Unclaimed Property Fund.

11       IT IS SO ORDERED.

12  
13 DATED: \_\_\_\_\_

\_\_\_\_\_  
14 HON. DAVID COHN  
15 SUPERIOR COURT OF CALIFORNIA  
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