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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.

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

JAN 10 2023

BY Jessica Garcez
JESSICA GARCEZ, DEPUTY

Case No.: CIVSB2123367

[Assigned for all Purposes to Hon. Joseph T.
Ortiz, Dept. S-17]

**AMENDED [~~PROPOSED~~] ORDER
GRANTING FINAL APPROVAL OF
CLASS AND REPRESENTATIVE
ACTION SETTLEMENT AND
JUDGMENT**

Date: January 10, 2023
Time: 1:30 p.m.
Dept.: S-17

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 January 10, 2023.

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
25 during the MSE Settlement Period ("MSE Subclass"); and

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. Pursuant to Paragraph 45 of the Settlement Agreement, Plaintiffs, Participating
3 Class Members, the LWDA and Aggrieved Employees shall be enjoined from filing, initiating,
4 or continuing to prosecute any actions, claims, complaints, or proceedings in court, arbitration,
5 with the California Division of Labor Standards Enforcement ("DLSE"), with the LWDA, or
6 with any other entity, with respect to the claims released as described in Paragraphs 42 and 43 of
7 the Settlement Agreement.

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

13 14. A compliance hearing is set to be held on May 10th, 2023, at 8:30 a.m. in
14 Department SJ7 ~~S26~~ of the San Bernardino County Superior Court in order to determine the number
15 and amount of any uncashed checks that have been distributed to the California State
16 Controller's Office – Office of Unclaimed Property Fund.

17 IT IS SO ORDERED.

18
19 DATED: 1/10/23

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HON. JOSEPH T. ORTIZ
21 SUPERIOR COURT OF CALIFORNIA
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