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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF TULARE

DON M. VASQUEZ, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

SAPUTO CHEESE USA INC., a Delaware
corporation; and DOES 1 through 25,
inclusive

Defendants.

Case No. VCU282978

Consolidated with Case No. VCU283853

ASSIGNED FOR ALL PURPOSES TO:

The Honorable John P. Bianco

Department 2

CLASS ACTION

**[PROPOSED] ORDER
GRANTING PRELIMINARY
APPROVAL OF CLASS ACTION
AND PAGA SETTLEMENT**

Continued Hearing Information

Hearing: January 8, 2024

Time: 8:30 a.m.

Dept.: 2

Judge: Hon. John P. Bianco

Complaint filed: May 27, 2020

Trial date: Not set

1 This matter came on for hearing on January 8, 2024 in Department 2 of the above-
2 captioned Court on Plaintiff's Motion for Order Granting Preliminary Approval of Settlement
3 ("Motion"). Having fully reviewed the Motion, supporting and supplemental memorandum of
4 Points and Authorities and Declarations, the Class and PAGA Action Settlement Agreement
5 ("Agreement") and the proposed Notice of Class and Representative Action Settlement
6 attached as Exhibit A to this Order ("Class Notice"), having carefully analyzed the Agreement
7 and Class Notice, and in recognition of the Court's duty to make a preliminary determination as
8 to the reasonableness of any proposed class action settlement, and if preliminarily determined
9 reasonable, to ensure proper notice is provided to Class Members in accordance with due
10 process requirements, and to set a Final Approval Hearing to consider the good faith, fairness,
11 adequacy and reasonableness of the proposed Settlement,

12 THE COURT MAKES THE FOLLOWING DETERMINATIONS AND ORDERS:

13 1. The Court conditionally finds, for purposes of approving this settlement only,
14 the proposed Class meets the requirements for certification under section 382 of the California
15 Code of Civil Procedure: (a) the proposed Class is ascertainable and so numerous joinder of all
16 members of the Class is impracticable; (b) there are questions of law or fact common to the
17 proposed Class, and a well-defined community of interest among members of the proposed
18 Class with respect to the subject matter of the class action; (c) the claims of the Class
19 Representative are typical of the claims of the members of the proposed Class; (d) the Class
20 Representative has and will fairly and adequately protect the interests of the Members of the
21 Class; (e) a class action is superior to other available methods for an efficient adjudication of
22 this controversy in the context of settlement; and (f) counsel of record for the Plaintiff/Class
23 Representative are qualified to serve as counsel for him as well as in his representative capacity
24 and for the Class.

25 2. The Court finds on a preliminary basis the Agreement, attached to the
26 Declaration of Jeff Geraci as Exhibit 1, incorporated by this reference in full, and made a part
27 of this Order of preliminary approval, appears to be within the range of reasonableness of a
28 settlement which could ultimately be given final approval by this Court.

1 3. It appears to the Court on a preliminary basis: (a) the Gross Settlement Amount
2 is fair and reasonable to Class Members when balanced against the probable outcome of further
3 litigation relating to class certification, liability and damages issues, and potential appeals; (b)
4 significant investigation, research, and informal discovery, have been conducted such that
5 counsel for the Parties are able to reasonably evaluate their respective positions; (c) settlement
6 at this time will avoid substantial costs, delay, and risks presented by further prosecution of the
7 litigation; and (d) the proposed Settlement was reached through intensive, serious, and non-
8 collusive negotiations facilitated by an experienced mediator.

9 4. Good cause appearing, the Court GRANTS Preliminary Approval of the Class
10 and PAGA Action Settlement, and incorporates the Agreement in this Order.

11 5. For purposes of this Settlement, Class or Settlement Class is defined as:

12 All current and former nonexempt California employees of Saputo employed at any
13 time from May 27, 2016 through and including March 30, 2023.

14 6. The Court finds the proposed Class Notice fairly and adequately advises Class
15 Members of (a) pendency of the Class Action Settlement; (b) conditional Class certification for
16 settlement purposes only; (c) preliminary Court approval of the proposed Settlement; (d) the
17 date, time and place of the Final Approval Hearing; (e) the terms of the proposed Settlement
18 and the benefits available to Class Members under the Settlement; and of their right to (f)
19 receive a proportionate share of the Net Settlement Amount without the need to return a claim
20 form; (g) request exclusion, and procedures and deadline for doing so; (h) object to the
21 Settlement, and procedures and deadline for doing so; and, (i) file documents in opposition to
22 the Settlement, and appear at the Hearing.

23 7. The Court finds the proposed Class Notice provides the best practicable notice
24 to the Class and comports with all constitutional requirements, including those of due process.
25 Accordingly, good cause appearing, the Court APPROVES the Class Notice. The Court further
26 finds mailing the Class Notice to the last known address of Class Members with measures
27 taken verify addresses verification and skip tracing of bad addresses, as described in the
28 Agreement, is an effective method of notifying Class Members of their rights in the class action

1 and the Settlement. Accordingly, IT IS ORDERED:

2 A. CPT Group, Inc. be appointed the Settlement Administrator to
3 administer the Settlement of this matter as more specifically set forth in the Agreement;

4 B. Jonathan M. Lebe and Zachary Gershman of Lebe Law, APLC and
5 Michael D. Singer and Jeff Geraci of Cohelan Khoury & Singer be appointed as Class Counsel;

6 C. Plaintiff Don M. Vasquez be appointed as Class Representative;

7 D. Within twenty-one (21) calendar days of the date the Court enters an
8 order granting Plaintiff's Motion for Preliminary Approval, Defendant shall provide to the
9 Settlement Administrator, in a Microsoft Excel Spreadsheet, or similar digital format, a list of
10 the Class Members that provides their names; last known mailing addresses and telephone
11 numbers; social security numbers; and the start and end dates of active employment during the
12 Class Period, as reflected in Defendant's existing business records and to the extent such
13 records and information exists. Defendant will diligently and in good faith compile the Class
14 List and Data Report from their records.

15 E. Within ten (10) business days of receipt of the Class List and Data
16 Report, the Settlement Administrator shall mail the Class Notice to each Class Member by first
17 class, regular U.S. mail, using the most current mailing address information available, with
18 measures taken for updating an address as provided by the terms of the Agreement.

19 F. On or before sixty (60) calendar days from the date the Settlement
20 Administrator first mails the Class Notice to Class Members (or, if the 60th day falls on a
21 Sunday or holiday, the next business day that is not a Sunday or holiday) (the "Opt-
22 Out/Objection Deadline Date"), Class Members who wish to exclude themselves from the
23 Class must submit a written request for exclusion in the manner set forth in the Class Notice.
24 Class Members who fail to submit a valid and timely written Request for Exclusion on or
25 before the Response Deadline shall be Settlement Class Members, bound by all Settlement
26 terms and any final judgment entered in this Action, if the Settlement is approved by the Court.

27 G. On or before the Opt-Out/Objection Deadline Date, Class Members who
28 wish to object to the Settlement, may send a written notice of objection in the manner set forth

1 in the Class Notice, but may attend the Final Approval Hearing, even if written objection is not
2 made, and;

3 H. On or before the Opt-Out/Objection Deadline Date, Class Members who
4 wish to dispute the information upon which their Settlement Payment is based must submit a
5 written dispute in the manner set forth in the Class Notice.

6 8. IT IS FURTHER ORDERED the Final Approval Hearing shall be held before
7 the undersigned at ____ a.m./p.m. on ____, 2024, in Department 2 of the Superior
8 Court of California, County of Tulare, located at 221 South Mooney Blvd., Visalia, California
9 93291, to consider the fairness, adequacy, and reasonableness of the proposed Settlement
10 preliminarily approved by this Order, and to consider the application for a Service Payment to
11 the Class Representative, Settlement Administrator expenses, and for Class Counsel's
12 attorneys' fees and litigation expenses incurred.

13 9. IT IS FURTHER ORDERED that if for any reason the Court does not execute
14 and file an Order Granting Final Approval, for any reason whatsoever, the Agreement and the
15 proposed Settlement that is the subject of this Order, and all evidence and proceedings in
16 connection the with the Order, shall be restored without prejudice to the status quo ante as more
17 specifically set forth in the Agreement.

18 10. IT IS FURTHER ORDERED, pending further order of this Court, proceedings
19 in this matter, except those contemplated by this Order and the Agreement, are stayed.

20 11. The Court reserves the right to adjourn or continue the Final Approval Hearing
21 without further notice to Class Members. If written objections are submitted, Class Counsel
22 shall notify objecting Class Members of the new date and time for the Final Approval Hearing.

23 **IT IS SO ORDERED.**

24
25 Dated: _____

26 _____
27 Honorable John Bianco
28 JUDGE OF THE SUPERIOR COURT

EXHIBIT A

EXHIBIT 1

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

TO: All non-exempt, hourly employees who worked in California for Saputo Cheese USA, Inc. (“Saputo”) any time from May 27, 2016, to March 30, 2023

*A court authorized this Notice. This is not a solicitation.
This is not a lawsuit against you and you are not being sued.
However, your legal rights are affected whether you act or don’t act.*

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS	
Do Nothing and Receive a Payment	You do not have to do anything to receive a Settlement payment Your Individual Settlement Payment will be mailed to you automatically after the Court grants final approval of the Settlement. (No. 11 below). <i>The Administrator <u>must</u> have your current address to mail your payment</i>
Exclude Yourself (“Opt Out”)	If you do not want to participate in the Settlement, you may exclude yourself, or “opt out.” If you opt out, you will not receive a Settlement payment, and you will keep all rights you may have against Saputo. (No. 6 below). If you exclude yourself from the Settlement, you will still receive your share of the PAGA Payment and release your PAGA claims.
Object	You can object to the Settlement if you think it is not fair by sending a written objection to the Settlement Administrator or by appearing in person at the time of the Final Approval Hearing. (No. 7 below).
Change Your Address	If your address is different than the address this Notice was mailed to, you must notify the Administrator of your correct address. A Change of Address Form and pre-printed return envelope are included with this Notice. Your Settlement Share payment will be mailed to the address on file with the Administrator.

**THIS NOTICE EXPLAINS YOUR RIGHTS AND THE DEADLINES TO EXERCISE THEM
DEFENDANT SUPPORTS THE SETTLEMENT AND WILL NOT RETALIATE AGAINST
ANY CLASS MEMBER FOR EXERCISING THE RIGHTS DESCRIBED IN THIS NOTICE**

1. What is a Class Action? Why Did I Get This Notice?

In a class action, one or more people called Class Representatives, in this case, Don Vasquez (“Plaintiff”), sue a Defendant, in this case, Saputo Cheese USA, Inc. (“Saputo”) on behalf of themselves and other people whom they allege have similar claims. (the “class.”) You are receiving this Notice because Saputo’s records show you worked for the Company in California as a non-exempt employee sometime during the period May 27, 2016 to March 30, 2023 (“Class Period”). Each person receiving this notice is believed to be a “Class Member.”

2. What is this Case About?

Plaintiff filed a lawsuit on May 27, 2020 in Tulare County Superior Court (Case No. VCU282978), seeking restitution, penalties, interest, costs, and attorneys’ fees, for the alleged failure to provide: all earned wages, including final wages; rest and meal periods; accurate wage statements; and reimbursement for business expenses. Plaintiff filed a second lawsuit on August 6, 2020 seeking civil penalties under the California Private Attorneys General Act (“PAGA”) based on the violations alleged above. (Case No. VCU283853). The two lawsuits have been joined together for settlement. (the “Lawsuit”).

Saputo denies all claims made in the Lawsuit and contends it has complied with all laws at all times. The Court has not decided either side is right and the Parties agreed to settle only to avoid the time and costs of litigation.

3. Am I a Class Member or PAGA Group Member?

You are a Class Member if you worked for Saputo in California any time from May 27, 2016 to March 30, 2023 as a non-exempt, or hourly, employee. As a Class Member, you will receive a payment because of this Settlement unless you opt out of the class as described below.

PAGA Group members worked for Saputo in California any time from May 12, 2019 through March 30, 2023 (“PAGA Period”) as a non-exempt, or hourly, employee. If you are a PAGA Group member, you will receive a payment for the PAGA portion of the Settlement whether or not you opt out of the class settlement.

4. Who are the Attorneys for the Class?

COHELAN KHOURY & SINGER

Michael D. Singer/Jeff Geraci
605 C Street, Suite 200
San Diego, California 92101
Telephone: (619) 595-3001
matlas@ckslaw.com

LEBE LAW, APLC

Jonathan M. Lebe/Zachary Gershman
777 S. Alameda Street, Second Floor
Los Angeles, California 90021
Telephone: (213) 358-7046

The Court decided Plaintiff’s attorneys are qualified to represent the Class in this Settlement. You do not need to hire an attorney because Class Counsel represent you, but you may hire your own attorney at your own expense.

5. What Are My Options?

DO NOTHING: If you do nothing, you will receive payment and be bound by the release of Class Action claims stated in this Notice and Settlement.

OPT OUT: If you “opt out,” you remove yourself from the Class Action. If the Court grants final approval of the Class Action Settlement, you will **not** receive any payment, except a share of the PAGA award, if eligible. This is the only way to retain your right to sue Saputo individually for claims covered by the Settlement.

OBJECT: If you want to object to any aspect **OF** the proposed Settlement you can write the Settlement Administrator. If you want to object then you must **not** opt out.

6. How Do I Opt Out or Exclude Myself from the Class Action Settlement?

If you do not want to remain in the Class Action Settlement, then you must sign and mail a written request, postmarked no later than _____, 2024 [60 days after Notice mailed] to the Settlement Administrator:

Saputo Class Action Settlement Administrator c/o XXX, Inc.
P.O. BOX _____
Irvine, California 9 _____

The opt-out request must state in substance: “I want to opt out of the Settlement of the case *Vasquez v. Saputo Cheese USA, Inc.* settlement. I understand I will not receive a Settlement Payment described in the Notice of Class Action Settlement.” The request must state your full name and address, and must be signed by you.

Opt out requests postmarked after _____, 2024, or that are incomplete or unsigned, will be rejected, and you will be bound by the Settlement and will receive your Settlement payment. Even if you return a valid and timely opt-out request, you will still receive a share of the PAGA Penalties and will release PAGA claims.

7. How Do I Object to the Class Action Settlement?

If you do not opt out, and believe the Settlement should not be finally approved by the Court, you may object in writing or in person. Written objections must state your name, current address, telephone number, dates of employment in California by Saputo, reason(s) for the objection, and the case name and number, *Vasquez v. Saputo Cheese USA, Inc.* Case No. VCU282978. Include any documents which support your objection. Written objections must be mailed to the Settlement Administrator at the address above and served on all counsel listed in this Notice on or before _____, 2024 [60 days after notice mailed]. You may appear at the Final Approval Hearing to object orally even if you have not objected in writing.

If the Court approves the Settlement you will be bound by all Settlement terms, even if you objected, in the same way as Class Members who do not object.

8. How Does This Settlement Affect My Rights? What are the Released Claims?

After the Court approves the Settlement, unless you exclude yourself, you are staying in the Class and cannot sue, continue to sue, or be part of any other lawsuit against Saputo for the claims released in this Action. You will be bound by the judgment in this Action and you will “give up” or release:

All claims that were or could have been asserted in this Lawsuit or that were based on or arose out of the facts alleged in this Lawsuit, including, claims for failure to provide: minimum, overtime, reporting time, and final wages; compliant rest and meal periods; accurate wage statements; reimbursement of business-related expenses; along with claims for unfair business practices (Cal. Bus. & Prof. Code §§ 17200, *et seq.*); and, civil penalties under Labor Code §§ 2698, *et seq.* based on the violations alleged above. The parties being released are Saputo Cheese USA, Inc., its present and former parents, subsidiaries, affiliates, insurers, successors, assignees, and related entities and their agents.

9. What is the Settlement Amount?

Saputo will pay a Gross *Settlement* Amount of \$2,400,000. The Gross Settlement Amount includes all Settlement payments to Class Members and, subject to Court approval: (a) Settlement Administration Expenses not to exceed \$17,500, (b) Class Representative Service Payment up to \$10,000 to compensate Plaintiff for services undertaken on behalf of the Class, (c) Class Counsel Fees up to \$800,000 (one-third of the Gross Settlement), (d) Class Counsel Costs up to \$35,000, (e) \$120,000 for civil penalties - \$90,000 (75%) paid to California’s Labor Workforce and Development Agency (“LWDA Payment”); and, \$30,000 (25%) paid to Class Members who worked from May 12, 2019 to March 30, 2020. The exact amount of these deductions from the Gross Settlement is subject to court approval.

10. How Much Can I Expect to Receive from the Settlement?

After deducting Court-approved amounts for the payments above, the remaining portion is the “Net Class Settlement Fund” (“NCSF”) estimated at \$1,417,500. Individual Gross Settlement Payments shall be distributed to all Class Members who do not request to be excluded (“Participating Class Members”). The Settlement Administrator will calculate Individual Gross Settlement Payments by dividing the total number of weeks all Class Member worked during the Class Period by the NCSF and multiplying that number by the number of weeks each Class Member worked during the Class Period.

Saputo’s records show you worked _____ Workweeks from May 27, 2016 through March 30, 2023.

Based on this information, you are estimated to receive a payment of <<_____>>, less withholdings, if you do not opt out.

Saputo’s records show you worked _____ Pay Periods during the PAGA Period, May 12, 2019 to March 30, 2023

Based on this information, you are estimated to receive PAGA penalties of <<_____>>. You will receive the PAGA payment whether or not you opt out of the class settlement.

Settlement Payments are allocated 80% to penalties and interest and 20% to wages. You will receive a Form 1099 for the penalty and interest amounts and a Form W-2 for the wage amounts from the Settlement Administrator.

If you believe the information your Settlement or PAGA Payment is based on is incorrect, you must return a written statement signed by you with any information or documents which support your position, with the case name and number, *Vasquez v. Saputo Cheese USA, Inc.* Case No. VCU282978. The Settlement Administrator will

use Saputo's records and the information you provide to resolve any disputes. The Administrator's determination will be final and binding, subject to Court review.

11. When Can I Expect to Receive a Settlement Payment?

You do not need to do anything to receive a Settlement Payment. If you do not opt-out, and there are no objections submitted, your share of the Settlement will be mailed to you about 40 days after the Court grants final approval of the Settlement and enters judgment. **Your share of the Settlement will be mailed to the address the Administrator has on file for you, which is the address where this Notice was mailed. If this address is not right, or if you move after you receive this Notice, you must inform the Settlement Administrator.**

12. The Final Approval Hearing.

The Court will hold a Final Approval Hearing on **xxxx**, 2024, at __:00 a.m., in Department 2 of the Tulare County Superior Court, located at 221 South Mooney Blvd., Visalia, California, to determine whether the Settlement is fair, reasonable, and adequate. The Court will also be asked to approve Class Counsel's request for attorneys' fees and reimbursement of litigation costs, the Class Representative Service Payment, and the Settlement Administrator's fees and expenses.

The Court may reschedule the Final Approval Hearing without further notice to Class Members, but, any Class Member who has submitted a written objection will be notified by Class Counsel of any rescheduling of the date of the Final Approval Hearing. **You are not required to attend** the Final Approval Hearing, although any Class Member is welcome to attend. Should the Court grant Final Approval of the Settlement and enter judgment, the Court's Order approving the Settlement and the Judgment may be viewed on the Administrator's website, www._____.com.

IF YOU NEED MORE INFORMATION OR HAVE ANY QUESTIONS, you may contact Class Counsel listed above, or the Settlement Administrator at the telephone number listed below, toll free. Please refer to the *Vasquez v. Saputo Cheese Class Action Settlement*.

This Notice does not contain all the proposed terms of settlement or all details of court proceedings. For more detailed information, you may refer to the underlying documents and papers on file with the Tulare County Superior Court at the address given above, or you may ask for a free copy from Class Counsel. Materials also appear on the Settlement Administrator's website: www._____.com, and at the Court's website: tulare.courts.ca.gov

PLEASE DO NOT CALL THE COURT, THE JUDGE, DEFENDANT'S SUPERVISORS, MANAGERS, OR ATTORNEYS ABOUT THIS SETTLEMENT

- To receive your Settlement payment as a Participating Class Member, you must not return an opt out request, and your current mailing address must be on file with the Administrator. All Class Members who worked any time during the PAGA Period, will receive a share of the PAGA Payment and release all PAGA claims.
- Settlement Share and PAGA Payment checks will be void 180 days after issued if not deposited or cashed. After 180 days, the Settlement Administrator will forward the unclaimed amount to Legal Aid at Work, legalaidatwork.org, a non-profit organization providing legal services to California workers. If your check is lost or misplaced, contact the Settlement Administrator immediately to request a replacement.