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Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE

ADRIAN ESCOBEDO, individually, on behalf
of other members of the general public similarly
situated;

Plaintiff,

v.

AMERIPEC, INC., a California corporation; and
DOES 1 through 100, inclusive;

Defendants.

Case No.: 30-2020-01170846-CU-OE-CXC

Assigned for All Purposes to:
Honorable Peter Wilson
Department CX-102

CLASS ACTION

**PLAINTIFF'S SUPPLEMENTAL BRIEF
IN SUPPORT OF PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT**

*[Supplemental Declaration of Proposed
Class Counsel (Douglas Han); and
Amended [Proposed] Order filed
concurrently herewith]*

Hearing Date: August 18, 2022
Hearing Time: 2:00 p.m.
Hearing Place: Department CX-102

Complaint Filed: November 18, 2020
FAC Filed: April 14, 2022
Trial Date: None Set

Plaintiff Adrian Escobedo (“Plaintiff”) provides this supplemental submission in response to the Court’s tentative ruling on Plaintiff’s Motion For Preliminary Approval of Class Action Settlement, Conditional Certification, Approval of Class Notice, Setting of Final Approval Hearing Date; Memorandum of Points and Authorities In Support Thereof (the “Motion”) originally scheduled for hearing on June 16, 2022. The Motion was continued to August 18, 2022 with instructions to address the issues outlined in the ruling.

The chart below lists each of the Court’s concerns from the tentative ruling and the revisions/submissions made to address each concern.

Ruling	Revisions/Submissions
(1) The Release includes California Labor Code § 200, 206, 210, 218.6, 1174.5, but these provisions were not identified in the PAGA Notice letter to the LWDA and may not be included in the Release. (Uribe v. Crown Building Maintenance Co. (2021) 70 Cal.App.5th 986, 1005.)	The Released Claims and PAGA Released Claims have been amended to address the issues listed in the Court’s tentative ruling in terms of being overbroad and including the release of Labor Code sections not identified in the notice letter sent to the California Labor and Workforce Development Agency. (Supplemental Declaration of Douglas Han In Support of Plaintiff’s Motion for Preliminary Approval of Class Action Settlement (“Supp. Han Decl.”), ¶ 8; Exhibit 2, §§ II(1), II(2).)
(2) The PAGA release language is overbroad in purporting to release "claims, debts, liabilities, demands, actions," and should be restricted to the release of all penalties claimable under PAGA based on the facts alleged in the operative complaint as read with	(Supp. Han Decl., <i>supra</i> , at ¶ 8; Exhibit 2, <i>supra</i> , at § II(1).)

1	the LWDA notice.	
2	(3) What happens if a Class Member submits	If a Class Member submits both an Exclusion
3	a request for exclusion and an objection?	Form and written objection to the Settlement
4		Administrator prior to the Response Deadline,
5		only the written objection will be deemed
6		valid.
7		
8		(Supp. Han Decl., <i>supra</i> , at ¶ 9; Exhibit 2,
9		<i>supra</i> , at § II(5).)
10	(4) At final approval Counsel should provide	At final approval, Class Counsel will provide
11	billing records in support of its fees and	billing records in support of its fees and
12	documentation of its costs. Further, Plaintiff's	documentation of its costs. Class Counsel will
13	counsel must disclose whether they have any	also disclose whether they have any fee-
14	fee-splitting arrangement with any other	arrangement with any other counsel or confirm
15	counsel, or confirm none exist. (<i>Barnes,</i>	none exists.
16	<i>Crosby, Fitzgerald & Zeman, LLP v. Ringler</i>	
17	(2012) 212 Cal.App.4th 172, 184; California	(Supp. Han Decl., <i>supra</i> , at ¶ 10.)
18	Rules of Court, rule 3.769(b).)	
19	(5) The Court will determine the appropriate	At final approval, Plaintiff will submit a
20	amount of Plaintiff's enhancement at final	declaration addressing the factors set forth in
21	approval. At final approval, Plaintiff should	<i>Golba v. Dick's Sporting Goods, Inc.</i> (2015)
22	submit a declaration addressing the factors set	238 Cal.App.4th 1251, 1272 and <i>Clark v. Am.</i>
23	forth in <i>Golba v. Dick's Sporting Goods, Inc.</i>	<i>Residential Servs. LLC</i> (2009) 175
24	(2015) 238 Cal.App.4th 1251, 1272 and <i>Clark</i>	Cal.App.4th 785, 804, including an estimate of
25	<i>v. Am. Residential Servs. LLC</i> (2009) 175	the hours spent on this litigation.
26	Cal.App.4th 785, 804, including an estimate	

1	of the hours spent on this litigation.	(Supp. Han Decl., <i>supra</i> , at ¶ 11.)
2	(6) With the motion for final approval,	With the motion for final approval, Plaintiff
3	Plaintiff must present a full report to the Court	will present a full report to the Court on all
4	on all exclusions and objections received. The	exclusions and objections received.
5	Court will consider any objections at the final	
6	approval hearing.	(Supp. Han Decl., <i>supra</i> , at ¶ 12.)
7	(7) Along with the motion for final approval,	Along with the motion for final approval, the
8	the settlement administrator should provide an	Settlement Administrator will provide an
9	estimated high and low for individual	estimated high, low, and average for
10	settlement payments, along with Plaintiff's	Individual Settlement Shares, along with
11	individual payouts.	Plaintiff's Individual Settlement Share.
12		
13		(Supp. Han Decl., <i>supra</i> , at ¶ 13.)
14	(8) The Class Notice is to be revised	The release language in the Class Notice has
15	consistent with the issues addressed above.	been amended to match the above-mentioned
16		amendments.
17		
18		(Supp. Han Decl., <i>supra</i> , at ¶ 14; Exhibit 3,
19		<i>supra</i> , at § 14.)
20		
21		The Class Notice has been amended to
22		indicate if a Class Member submits both an
23		Exclusion Form and written objection to the
24		Settlement Administrator prior to the
25		Response Deadline, only the written objection
26		will be deemed valid.

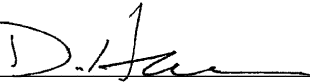
		(Supp. Han Decl., <i>supra</i> , at ¶ 15; Exhibit 3, <i>supra</i> , at § 9.)
(9) The Settlement Administrator is supposed to provide the Notice in English and Spanish. Settlement, ¶I.V. Does notice need to be translated to other languages?	The Class Notice and Exclusion Form do not need to be translated into any language other than Spanish. Defendant's communications with its employees are issued in English and Spanish; no other languages.	(Supp. Han Decl., <i>supra</i> , at ¶ 16.)
(10) The Notice provides that the Settlement Administrator's decision on disputes is "final and binding". Class Notice, §8. This is contrary to the Settlement, ¶V.H.2.d. The Court and not the settlement administrator will make the final decision on disputes.	The Court will make the final decision on disputes.	(Supp. Han Decl., <i>supra</i> , at ¶ 17; Exhibit 2, <i>supra</i> , at § II(3); Exhibit 3, <i>supra</i> , at § 8.)
(11) The Notice provides that if an objecting Class Member wishes to speak, he or she must indicate in his or her written objection that he or she intends to appear at the Final Approval Hearing. Class Notice, §9. This is contrary to the Settlement. Settlement, ¶V.H.3. Further, the Settlement does not permit written objections to be faxed. Ibid. A class member wishing to object may do so by simply appearing at the Final Approval Hearing.	Class Members wishing to object to the Settlement Agreement may do so by simply appearing at the Final Approval Hearing.	(Supp. Han Decl., <i>supra</i> , at ¶ 18; Exhibit 2, <i>supra</i> , at § II(4); Exhibit 3, <i>supra</i> , at § 9.)
(12) The Exclusion Form should tell Class	The Exclusion Form has been amended to	

Members what will happen if they submit a request for exclusion and objection at the same time.	inform Class Members if they submit both an Exclusion Form and written objection to the Settlement Administrator prior to the Response Deadline, only the written objection will be deemed valid. (Supp. Han Decl., <i>supra</i>, at ¶ 19; Exhibit 4, <i>supra</i>, at p. 1.)
(13) The proposed order is to be revised consistent with the issues addressed above.	The Amended Proposed Order has been amended to be consistent with the above-mentioned changes. (Supp. Han Decl., <i>supra</i>, at ¶ 20; Exhibit 5, <i>supra</i>, at ¶¶ 14, 16-18.)
(14) The Settlement, Notice and Request for Exclusion should be attached to the proposed order as an exhibit, including certified Spanish translations.	The Joint Stipulation of Settlement and Release, amended Class Notice with a certified Spanish translation, and amended Exclusion Form with a certified Spanish translation have been attached as exhibits to the Amended Proposed Order. (Supp. Han Decl., <i>supra</i>, at ¶ 21; Exhibit 5, <i>supra</i>, at ¶¶ 1, 7-8.)
(15) The preliminarily approved disbursements should be included in the proposed order.	The preliminarily approved disbursements have been included in the Amended Proposed Order.

(Supp. Han Decl., *supra*, at ¶ 22; Exhibit 5, *supra*, at ¶ 19.)

Dated: July 21, 2022

JUSTICE LAW CORPORATION

By: 
Douglas Han
Attorneys for Plaintiff

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PROOF OF SERVICE
1013A(3) CCP

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 751 N. Fair Oaks Avenue, Suite 101, Pasadena, CA 91103 and my electronic service address is manderson@justicelawcorp.com

On July 22, 2022, I served the foregoing document described as

PLAINTIFF'S SUPPLEMENTAL BRIEF IN SUPPORT OF PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT

for the following case: **Escobedo v. Ameripec, Inc.**
LWDA/Court Case No.: **LWDA Case No.: CM-804605-20**
Court Case No.: 30-2020-01170846-CU-OE-CXC
Orange County Superior Court

on interested parties in this action by electronically submitting as follows:

State of California
Labor & Workforce Development Agency
800 Capitol Mall, MIC-55
Sacramento, California 95814

[X] BY ELECTRONIC SUBMISSION

Pursuant to California Senate Bill No. 836, I caused the documents described above to be electronically submitted by and through the procedure stated on the website of the State of California Labor and Workforce Development Agency.

[X] STATE

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on July 22, 2022, at Pasadena, California.


Mariah Anderson