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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

GENNIFER MANZO, individually and on
behalf of all others similarly situated,

Plaintiff,

vs.

MCDONALD'S RESTAURANTS OF
CALIFORNIA INC., a corporation; and
DOES 1 through 50, inclusive,

Defendants.

Case No.: 1:20-cv-01175-HBK

**PLAINTIFF'S NOTICE OF RENEWED
MOTION AND RENEWED MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT;
MEMORANDUM OF POINTS AND
AUTHORITIES**

Date: February 16, 2022
Time: 2:00 p.m.
Courtroom: Yosemite Courthouse
Magistrate Judge: Hon. Helena M.
Barch-Kuchta

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TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on February 16, 2022, at 2:00 p.m., or as soon thereafter as the matter may be heard in Courtroom 1, of the United States District Court for the Eastern District of California, Yosemite Federal Courthouse located at 9004 Castle Cliffs Ct, Yosemite Valley, CA 95389, Plaintiff Gennifer Manzo (“Plaintiff”) will and hereby does move the Court for a renewed motion for preliminary approval of the proposed Class Action Settlement Agreement and Release and First Amendment to the Class Action Settlement Agreement and Release (collectively referred to as the “Agreement” or “Settlement”). Specifically, Plaintiff respectfully requests that the Court: (1) grant preliminary approval for the proposed class action settlement and approval of the Private Attorneys General Act (“PAGA”) settlement as set forth in the Settlement; (2) grant certification of the proposed Classes, for settlement purposes only: (a) all California non-exempt employees who received wage statements that included daily, weekly, or seventh day premium overtime and/or MQI True Up wages at any time from June 2, 2020 through the Preliminary Approval Date (“June 2, 2020 Subclass Class Period”) and who were subject to the class settlement reached in *Sanchez v. McDonald's Restaurants of Cal., Inc.*, Los Angeles County Superior Court Case No. BC499888 (the “June 2, 2020 Settlement Subclass”); and (b) all California non-exempt employees who received wage statements that included daily, weekly, or seventh day premium overtime and/or MQI True Up wages at any time from April 6, 2019 through the Preliminary Approval Date (“April 6, 2019 Subclass Class Period”), and who were not subject to the class settlement reached in *Sanchez v. McDonald's Restaurants of Cal., Inc.*, Los Angeles County Superior Court Case No. BC499888 (the “April 6, 2019 Settlement Subclass”); (3) authorize the mailing of the proposed Notice of Class Action and PAGA Settlement (“Class Notice”); and (4) schedule a “fairness hearing,” i.e., a hearing on the final approval of the settlement.

Plaintiff makes this unopposed Motion on the grounds that the proposed Settlement is within the range of possible final approval and consistent with the standards for approval of class action settlements, and notice should, therefore, be provided to the Class. This Motion is based upon this Notice of Renewed Motion and Renewed Motion for Preliminary Approval of Class

1 Action Settlement, Declaration of Larry W. Lee in Support of Renewed Motion for Preliminary
2 Approval of Class Action and Private Attorneys General Act Settlement, the previously filed
3 Motion for Preliminary Approval of Class Action Settlement (Doc. Nos. 15, 21), which this
4 Court recently denied without prejudice in its January 12, 2022 Order (“Order”), any oral
5 argument of counsel, the complete files and records in the above-captioned matter, and such
6 additional matters as the Court may consider.

7
8 DATED: January 18, 2022

DIVERSITY LAW GROUP

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10 By: /s/ Larry W. Lee
11 Larry W. Lee
12 Attorneys for Plaintiff and the Class
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1 Plaintiff Gennifer Manzo (“Plaintiff”) hereby renews her previously filed Motion for
2 Preliminary Approval of Class Action Settlement (Doc. Nos. 15, 21), which this Court recently
3 denied without prejudice in its January 12, 2022 Order (“Order”). (Doc. No. 22). Specifically,
4 the Court identified various items and issues in the Class Action Settlement Agreement and
5 Release (“Settlement Agreement”) and proposed Class Notice, which the Court requested the
6 Parties to revise.

7 As such, and pursuant to this Court’s Order, the Parties have revised the items this Court
8 identified in its Order. Specifically, and as further discussed in more detail below, Plaintiff and
9 Defendant McDonald’s Restaurants of California, Inc. (“Defendant”) (Plaintiff and Defendant
10 shall collectively be referred to as the “Parties”) have entered into an amendment to the
11 Settlement Agreement (“Amendment”), which amends various terms of the Settlement
12 Agreement that the Court addressed in its Order. Similarly, the Parties have also revised
13 proposed Class Notice to address the issues identified in the Order. The Amendment is attached
14 as Exhibit 1 to the concurrently filed Declaration of Larry W. Lee, and the revised proposed
15 Class Notice is Exhibit A to the Amendment. A redline version of the revisions made to the
16 proposed Class Notice is attached as Exhibit 2 to the concurrently filed Declaration of Larry W.
17 Lee (“Lee Decl.”).

18 Without reiterating what was previously set forth in Plaintiff’s Motion for Preliminary
19 Approval (Doc. No. 15) and Supplemental Brief in support thereof (Doc. No. 21), which Plaintiff
20 incorporates by reference herein, Plaintiff seeks to renew said Motion for the following reasons.¹

21 **I. THE AMENDMENT**

22 The first issue identified by the Court’s Order is the inadvertent clerical reference in
23 Paragraph 3.1 of the Settlement Agreement to “Paragraphs 2.6.1 and 2.6.2.” As reflected in the
24 Amendment, such references have been amended to reflect “Paragraphs 2.23.1 and 2.23.2.”

25 The second issue identified by the Court’s Order is the allocation of the proportionate
26 _____

27 ¹ Concurrent with the filing of this Renewed Motion, Plaintiff has also uploaded the Amendment
28 to the California Labor & Workforce Development Agency pursuant to California Labor Code §
2699. (Lee Decl. ¶ 3).

1 shares of each Settlement Class Member's individual settlement shares. It was and remains the
2 Parties' intent that all Settlement Class Members be treated equally with one another as to their
3 allocation of both the PAGA settlement amount as well as the class settlement amount. In light
4 of the guidance provided in the Court's Order, the Parties have revised and amended Paragraphs
5 9.2 and 9.3 to clarify their proposed allocation methodology.

6 Because Class Members who opt out of the class settlement will remain allegedly
7 aggrieved employees covered by the PAGA settlement, each Settlement Class Member's share
8 of the portion of the settlement pertaining to PAGA does not come from the "Net Settlement
9 Amount" but rather from the "PAGA Allocation" amount as specified in Paragraph 9.2, and each
10 participating or Remaining Settlement Class Member's share of the portion of the *class*
11 settlement will come from the "Net Settlement Amount." Thus, all amounts paid out to the
12 Settlement Class Members for settlement of the PAGA claim will equal 100% of the PAGA
13 Allocation amount, and all amounts paid out to the Remaining Settlement Class Members for
14 settlement of the class claims will equal 100% of the Net Settlement Amount.

15 **II. THE REVISED PROPOSED CLASS NOTICE**

16 As shown in the revised proposed Class Notice, the Parties have made the appropriate
17 changes to the proposed Class Notice as raised in the Court's Order.

18 **III. THE NUMBER OF DAYS BETWEEN PRELIMINARY APPROVAL AND THE** 19 **DATE OF THE FINAL APPROVAL HEARING**

20 Should the Court grant preliminary approval, the Court has requested that Plaintiff
21 provide the necessary number of days between the Court's anticipated issuance of the
22 preliminary approval order and the date of the final approval hearing.

23 Based on the timelines set forth in the Settlement Agreement, Plaintiff believes that two
24 hundred (200) calendar days will provide sufficient time between the Court's anticipated
25 issuance of the preliminary approval order and the date of the final approval hearing. This will
26 allow sufficient time for Defendant to provide the class data to the settlement administrator (20
27 business days), the settlement administrator to prepare the mailing of the Class Notice (20
28 business days), Settlement Class Members to opt-out or object (45 calendar days, plus 15

1 calendar days for re-mailed notices), the settlement administrator to provide a final list of Opt-
2 Outs (10 business days), Defendant to determine whether to exercise its potential revocation
3 rights (10 business days), and Plaintiff to file her Motion for Final Approval after expiration of
4 the exclusion/objection period (28 calendar days before the hearing date).

5 **IV. CONCLUSION**

6 For the foregoing reasons, and as further discussed in Plaintiff's previously filed Motion
7 for Preliminary Approval, and supplemental brief thereto, Plaintiff respectfully requests that this
8 Court grant preliminary approval of the settlement.

9
10 DATED: January 18, 2022

DIVERSITY LAW GROUP

11
12 By: /s/ Larry W. Lee
13 Larry W. Lee
14 Attorneys for Plaintiff and the Class
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