

Larry W. Lee (State Bar No. 228175)
Kristen M. Agnew (State Bar No. 247656)
Nicholas Rosenthal (State Bar No. 268297)
DIVERSITY LAW GROUP, P.C.
515 S. Figueroa Street, Suite 1250
Los Angeles, CA 90071
(213) 488-6555
(213) 488-6554 facsimile

Attorneys for Plaintiff and the Class

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

JOSE PABLO JIMENEZ, as an individual
and on behalf of all others similarly
situated,

Plaintiff,

vs.

NESTLE WATERS NORTH AMERICA,
INC., a Delaware corporation; and DOES
1 through 50, inclusive,

Defendants.

Case No.: BCV-20-102561

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

Date: August 15, 2022

Time: 8:30 a.m.

Division: J

Complaint Filed: November 2, 2020

FAC Filed: February 7, 2022

Trial Date: None Set

1 Plaintiff Jose Pablo Jimenez (“Plaintiff”) and Defendant Nestle Waters North America,
2 Inc., now known as Blue Triton Brands, Inc. (“Defendant”) (collectively, the “Settling Parties”)
3 have entered into the Joint Stipulation of Class and Representative Action Settlement
4 (“Settlement Agreement”) to settle the above-captioned class action subject to the Court’s
5 approval (the “Settlement”).

6 This matter is now before the Court on Plaintiff’s Motion for Final Approval of Class and
7 Representative Action Settlement. The Court has read, heard, and considered all the pleadings
8 and documents submitted, and the presentations made in connection with the Motion which came
9 on for hearing on August 15, 2022.

10 **I. BACKGROUND**

11 On November 2, 2020, Plaintiff initiated this action in the Superior Court of the State of
12 California for the County of Kern, alleging the following class action claims: (1) violation of
13 Labor Code §§ 510, 558, and 1194; (2) violation of Labor Code §§ 226.7 and 512; (3) violation
14 of Labor Code § 226.7; (4) violation of Labor Code §§ 201, 202, and 203; (5) violation of Labor
15 Code § 226(a); (6) violation of Business and Professions Code § 17200, *et seq.*; and (7) violation
16 of Labor Code § 2698, *et seq.*

17 On February 7, 2022, Plaintiff filed a First Amended Complaint, adding allegations for
18 Defendant’s failure to pay for all hours worked and improper time rounding policies.

19 **A. Class Members and PAGA Group Members**

20 The “Class Members” are defined as: all current and former non-exempt employees of
21 Defendant Nestle Waters North America, Inc., now known as Blue Triton Brands, Inc.
22 (“Defendant”), who worked in the State of California at any time during the period of May 6,
23 2016 through January 10, 2022 (the “Class”) ¹.

24 The “PAGA Group Members” are defined as: all current and former non-exempt
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26 ¹ Excluding (a) those Class Members who participated in the *Ortega et al. v. Nestle Waters North*
27 *America, Inc.* (Los Angeles Sup. Ct. Case No. No. BC623610) settlement and separated
28 employment on or before May 9, 2018, and (b) any pay periods on or before May 9, 2018 for
those in the Class who participated in the Ortega Settlement and remained employed after May 9,
2018.

employees of Defendant who worked in the State of California at any time during the PAGA Period [the period from May 6, 2019 to January 10, 2022].

B. Operation of the Settlement

Pursuant to the Preliminary Approval Order, this Court conditionally certified the Class and granted preliminary approval of the Settlement. The Preliminary Approval Order also approved of the proposed form of class notice and notice plan. The Court entered the Preliminary Approval Order after review and consideration of the pleadings filed in connection herewith, and the oral presentations made by counsel at the hearing.

In compliance with the Preliminary Approval Order, the Notice of Class Action Settlement (“Notice”) was sent to all Class Members via U.S. first class mail. The notice dissemination process was timely completed.

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

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

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

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

1. The Court, for purposes of this Order, adopts all defined terms as set forth in the

1 Settlement Agreement filed in this case.

2 2. The Court has jurisdiction over the subject matter of the litigation, the Class
3 Representative, the other members of the Settlement Class, and Defendant.

4 3. The Court finds that the dissemination of the Notice to the Class Members
5 constituted the best notice practicable under the circumstances to all persons within the definition
6 of the Class, and fully met the requirements of California law and due process under the United
7 States Constitution. No objections were received by the Parties or the Court through the date of
8 this Order. The Court finds that no Class Member submitted a request for exclusion from the
9 settlement as determined by the Settlement Administrator.

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 Settling Parties. The
12 Settling Parties are directed to perform in accordance with the terms set forth in the Settlement
13 Agreement.

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

16 6. The Court hereby certifies the following Class for settlement purposes only: all
17 current and former non-exempt employees of Defendant Nestle Waters North America, Inc., now
18 known as Blue Triton Brands, Inc. ("Defendant"), who worked in the State of California at any
19 time during the period of May 6, 2016 through January 10, 2022 [excluding (a) those Class
20 Members who participated in the *Ortega et al. v. Nestle Waters North America, Inc.* (Los
21 Angeles Sup. Ct. Case No. No. BC623610) settlement and separated employment on or before
22 May 9, 2018, and (b) any pay periods on or before May 9, 2018 for those in the Class who
23 participated in the Ortega Settlement and remained employed after May 9, 2018].

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

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

7 8. Defendants shall fund \$1,600,000.00 of the total settlement amount pursuant to
8 the terms of the Settlement Agreement.

9 9. The Court approves the individual class settlement payment amounts, which shall
10 be distributed pursuant to the terms of the Settlement Agreement.

11 10. The \$1,600,000.00 Maximum Settlement Amount shall be used to pay (a) Class
12 Counsel attorneys' fees in the amount of \$560,000.00 and reimbursement of litigation costs in
13 the amount of \$8,522.18; (b) a service award to the Class Representative Jose Pablo Jimenez to
14 reimburse him for his unique services in the following amount: \$10,000.00; (c) PAGA penalties
15 in the amount of \$50,000.00; and (d) \$15,000.00 to the settlement administrator – Phoenix
16 Settlement Administrators (the "Settlement Administrator") for its fees and costs relating to the
17 settlement administration process. The Court finds that these amounts are fair and reasonable.
18 Defendants are directed to make such payments in accordance with the terms of the Settlement
19 Agreement. The allocation and distribution of these amounts shall be performed by Settlement
20 Administrator.

21 11. As of the date of this Order, all Settlement Class Members are hereby deemed to
22 have waived and released all Released Claims and are forever barred and enjoined from
23 prosecuting the Released Claims against the Released Parties as fully set forth in the Settlement
24 Agreement. The Settlement Agreement is not an admission of liability or wrongdoing by
25 Defendants, nor is this Order a finding of the validity of any claims in the Action or of any fault,
26 omission, or wrongdoing by Defendants.

27 12. The Final Accounting Hearing is hereby set for _____, at _____ a.m. in
28 Department J of the above-referenced Court. At least 10 days prior to the Final Accounting

1 Hearing, Plaintiff's Counsel shall file a final report regarding status of the settlement
2 administration.

3 13. The Court hereby enters final judgment in this case in accordance with the terms
4 of the Settlement, Preliminary Approval Order, and this Order.

5 14. Without affecting the finality of the Settlement or Judgment entered, this Court
6 shall retain exclusive and continuing jurisdiction over the action and the Parties, including all
7 Settlement Class Members, for purposes of enforcing and interpreting this Order and the
8 Settlement.

9 **IT IS SO ORDERED AND ADJUDGED.**

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11 DATED: _____

12 HON. J. ERIC BRADSHAW
13 SUPERIOR COURT OF CALIFORNIA
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