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LAW AND MOTION DEPT 53/54
SUPERIOR COURT
OF CALIFORNIA
SACRAMENTO COUNTY

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10 *Caption continued on next page*

11 **SUPERIOR COURT OF CALIFORNIA**
12 **FOR THE COUNTY OF SACRAMENTO**

13 **ANALISA LEONG-CALL and ERIC**
14 **INGALLS, individually and on behalf of all**
15 **other similarly situated employees,**

16 **Plaintiffs,**

17 **vs.**

18 **MRB FOODS INC., a California Corporation;**
19 **SANJAY LILLANEY, an individual;**
20 **CONNIE GAMMON, an individual; and**
21 **DOES 1 to 100, inclusive,**

22 **Defendants.**

Case No. 34-2020-00287486

CLASS ACTION

CEC
[PROPOSED] ORDER GRANTING
PLAINTIFFS' MOTION FOR FINAL
APPROVAL OF CLASS ACTION AND PAGA
SETTLEMENT

Date: June 7, 2022

Time: 9:00 a.m.

Dept.: 54

Judge: Hon. Christopher E. Krueger

Filed: October 14, 2020

FAC Filed: December 21, 2020

SAC Filed: November 8, 2021

Trial Date: None Set

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[PPSD] ORDER GRANTING FINAL APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT



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Attorneys for Plaintiff ERIC INGALLS

1 TO ALL PARTIES AND THEIR RESPECTIVE COUNSEL OF RECORD:

2 The Motion for Final Approval of Class Action and PAGA Settlement ("Motion") in the above
3 referenced case came before this Court, on June 7, 2022 at 9:00 a.m., in Department 54 before Hon.
4 Christopher E. Krueger, presiding. Named Plaintiff Analisa Leong-Call filed this putative class action
5 on October 14, 2020. The operative Complaint filed on November 8, 2021 to include named Plaintiff
6 Eric Ingalls alleges that Defendants MRB Foods Inc., Sanjay Lillaney and Connie Gammon
7 ("Defendants") are liable for failure to pay minimum wages and for all hours worked, failure to pay
8 overtime, meal period violations, rest period violations, wage statement violations, untimely payment
9 of wages, failure to pay final wages, failure to reimburse expenses, unfair competition, and failure to
10 pay accrued vacation. Plaintiffs have also alleged Defendants are liable for a civil penalties under the
11 Private Attorneys General Act ("PAGA") based on these violations and failure to provide paid sick
12 leave, failure to keep accurate records and unlawfully collecting or receiving wages in violation of
13 Labor Code section 221. Plaintiffs sought attorneys' fees and costs as part of this Action. Defendants
14 denied all of Plaintiffs' claims and denied that this case was appropriate for class treatment. No class
15 has been certified. The class settlement was preliminarily approved by this Court on February 16,
16 2022.

17 The parties have agreed to settle the class and PAGA claims. Defendants will provide
18 monetary consideration in exchange for a release of claims consistent with the terms of the proposed
19 settlement as set forth in the Joint Stipulation Regarding Class Action and PAGA Settlement and
20 Release ("Agreement"). Any capitalized terms herein shall have the same meaning as set forth in the
21 Agreement. The Court, having received and considered Plaintiffs' Motion for Final Approval of Class
22 Action and PAGA Settlement, the declarations in support, the Agreement, the Notice of Settlement,
23 and other evidence, HEREBY ORDERS AND MAKES DETERMINATIONS AS FOLLOWS:

24 **1. CERTIFYING A SETTLEMENT CLASS; APPOINTMENT OF CLASS**
25 **REPRESENTATIVES; APPOINTMENT OF CLASS COUNSEL**

26 The Court finds that certification of the following class for settlement purposes only is
27 appropriate under the California Code of Civil Procedure and related case law:
28

1 Current and former non-exempt employees of Defendants in California
2 from October 5, 2019 up to November 6, 2021.

3 The Court recognizes that the foregoing definition is for Class Member identification purposes
4 only and is not intended to capture the claims at issue or limit or alter the released claims under the
5 Agreement. The definition of Class Members shall not include the one (1) individual who opted out of
6 the settlement identified in the Declaration of Evelin Reyes. This individual shall not be bound by the
7 Agreement or any of the releases or obligations therein except for the releases and covenants regarding
8 the PAGA claims as he or she is still an Aggrieved Employee under the Agreement and there is no
9 ability to opt out of a PAGA settlement.

10 The Court finds that Class Members meet the ascertainability and numerosity requirements since
11 the parties can identify with a matter of certainty, based on payroll records, individuals who fall within
12 the definition and the number of Class Members would make joinder impractical. The commonality and
13 predominance requirements are met for settlement purposes since there are questions of law and fact
14 common to Class Members. The common questions of law or fact in this case all stem from Plaintiffs'
15 contentions that Defendants caused the violations outlined above by 1) failing to incorporate the value of
16 nondiscretionary bonuses into putative class members' regular rates of pay for the purpose of calculating
17 overtime wages and paid sick time; 2) failing to pay putative class members for all hours worked,
18 including overtime hours (requiring off the clock work pre and post shift and requiring clock outs for
19 meal periods not taken); 3) contacting putative class members on their personal cellphones during shifts
20 and failing to reimburse for cellphone use; 4) requiring putative class members to use their personal
21 vehicles to drive to other restaurants and make bank deposits and failing to reimburse mileage; 5) failing
22 to authorize and permit all meal and rest periods (missed lunches, late lunches, and no second lunch for
23 shifts over 10 hours); and 6) failing to pay accrued but unused vacation wages upon separation. The
24 PAGA, waiting time penalty, wage statement violation, and unfair competition claims also derive from
25 these violations. Additionally, Class Members seek the same remedies under state law. The typicality
26 requirement for settlement purposes is also satisfied since the claims of the Class Representatives are
27 based on the same facts and legal theories as those applicable to the class members.

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1 The Court also finds that certifying the settlement class is required to avoid each Class Member
2 from litigating similar claims individually. This settlement will achieve economies of scale for Class
3 Members with relatively small individual claims and conserve the resources of the judicial system.

4 The Court finds that Plaintiffs Analisa Leong-Call and Eric Ingalls and Plaintiffs' counsel, Galen
5 T. Shimoda, Justin P. Rodriguez and Brittany V. Berzin of Shimoda & Rodriguez Law, PC, David
6 Yeremian and Alvin B. Lindsay of David Yeremian and Associates, Inc., and Walter Haines of United
7 Employees Law Group PC to be adequate representatives of the settlement class. The Court appoints
8 them as class representative and class counsel, respectively.

9 **2. APPROVING CLASS ACTION AND PAGA SETTLEMENT**

10 The Court has reviewed the Agreement, which was submitted with Plaintiffs' Motion as Exhibit
11 A to this Motion. The Court finds that the Agreement falls within the range of reasonableness and is
12 fair, reasonable, and adequate for the class. The Court also acknowledges that Class Members had an
13 opportunity to object to the settlement through the administration process and at a fairness hearing
14 approved by this Court or opt-out of being bound by the Agreement.

15 Because the Court finds the Parties' settlement to have been agreed upon only after an extensive
16 investigation and arms-length negotiations, and in an attempt to avoid further delays and costs, the Court
17 gives final approval to the Agreement and all terms therein as if stated here in full, including the
18 \$200,000 Gross Settlement Amount.

19 The Court orders that Plaintiffs Analisa Leong-Call and Eric Ingalls will receive \$10,000 each as
20 a Class Representative Enhancement Payment in addition to any amount Plaintiffs may be entitled to
21 under the Agreement's pro rata distribution formula for Plaintiffs' time and effort on behalf of Class
22 Members.

23 The Court orders and approves Simpluris, Inc. to act as the Claims Administrator in this case.
24 The Claims Administrator will take its fees out of the Gross Settlement Amount of \$9,400. The
25 difference between the actual cost of the Claims Administrator and the originally allocated amount
26 under the Agreement will redistributed to Qualified Claimants on a pro-rata basis.

27 The Court finds that an award of fees under the common fund doctrine is appropriate in this case
28 because there is a sufficiently identifiable class of beneficiaries (*i.e.* Class Members), the benefits can be

1 accurately traced as set forth in the Agreement, Plaintiffs and Class Counsel were able to negotiate on
2 behalf of Class Members, and the fee can be shifted with exactitude to those benefiting as the fee request
3 is a specific, lump-sum percentage of the Gross Settlement Amount. *See Paul, Johnson, Alston & Hunt*
4 *v. Gaulty*, 886 F.2d 268, 271 (9th Cir. 1989); *Serrano v. Priest*, 20 Cal.3d 25, 34-35 (1977); *Laffitte v.*
5 *Robert Half Internat., Inc.*, 1 Cal.5th 480, 506 (2016). The Court finds the attorneys' fees request of
6 thirty-five percent (35%) of the Gross Settlement Amount, *i.e.*, \$70,000, to be appropriate compensation
7 for Class Counsel. The attorneys' fees request is within the range that has been approved by other
8 Courts in similar cases and is reasonable in light of the circumstances of this case, the substantial and
9 beneficial results obtained on behalf of Class Members, and the contingent nature of the recovery over
10 the course of this case, which included potential loss at summary judgment, certification, and/or trial
11 proceedings. Additionally, the Court orders that \$20,664.92 of the settlement proceeds will be paid to
12 Class Counsel for reasonable costs incurred in this case. The difference between the actual costs
13 incurred and the \$22,000 originally allocated under the Agreement shall be paid to the Qualified
14 Claimants on a pro-rata basis.

15 The Court approves of the Ten Thousand Dollars and No Cents (\$10,000) PAGA Payment,
16 which shall be paid from the Gross Settlement Amount, not in addition to the Gross Settlement Amount,
17 to resolve the alleged PAGA claims. Seventy-Five percent (75%) of the PAGA Payment will be paid to
18 the Labor and Workforce Development Agency ("LWDA") and Twenty-Five percent (25%) will be paid
19 to Aggrieved Employees on a pro rata basis as described in the Agreement. The Court also finds that the
20 Agreement provides a recovery that creates an effective substantial deterrent to any potential future non-
21 compliance, furthering the purpose of the Labor Code and LWDA.

22 The Court approves of the identified *cy pres* distribution plan wherein any checks issued to
23 Qualified Claimants and/or Aggrieved Employees that are not cashed by the deadline to do so shall be
24 paid out 50/50 to Capital Pro Bono, Inc. and the Center For Workers' Rights.

25 The releases and waivers for Class Members who did not opt out of being bound by the
26 Agreement (*i.e.*, Qualified Claimants), Aggrieved Employees, and the Class Representatives are also
27 approved by the Court as set forth in the Agreement.

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1 **3. APPROVAL OF DISTRIBUTION TO THE CLASS, THE NOTICE OF SETTLEMENT,**
2 **OPPORTUNITY TO OPT OUT OF, AND OBJECT TO, THE SETTLEMENT**

3 The Court finds that the Notice of Settlement, which was submitted with Plaintiffs' Motion as
4 Exhibit A to the Declaration of Evelin Reyes, fairly and adequately advised Class Members of the terms
5 of the Agreement, the rights being waived, their right to opt out, the ability to dispute the number of
6 workweeks worked during the Class Period, their pro rata share of the Net Settlement Amount, how to
7 participate in the settlement, how to file documentation in opposition to the proposed settlement, and
8 when to appear at the fairness hearing to be conducted on the date set forth below. The Court further
9 finds that the Notice of Settlement and distribution of such notice by first class mail to each identified
10 Class Member at his or her most recent address based on a National Change of Address database search
11 from the Class Members' last known address and a skip trace on any Class Members who have the
12 Notice of Settlement returned as "undeliverable" or "not at this address" comported with all
13 constitutional requirements, including those of due process.

14 **4. IMPLEMENTATION SCHEDULE**

15 Accordingly, with good cause shown, the Court hereby approves and orders that the following
16 implementation schedule be adhered to:

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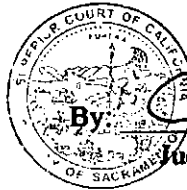
18 Last day for Claims Administrator to calculate the 19 final Net Settlement Amount, the final Claim 20 Amounts for Qualified Claimants and/or 21 Aggrieved Employees, any applicable taxes thereon, and report the results of these calculations Class Counsel and Defendants' Counsel	Within 7 days after the Final Approval Date
22 Last day for Defendants to fund settlement	Within 21 calendar days after the Effective 23 Date
24 Last day for Claims Administrator to deliver 25 payment of Class Counsel's attorney's fees and 26 costs, Enhancement Payments, PAGA Payment, 27 Claims Administrator Costs, payment to 28 Qualified Claimants, and payment to Aggrieved Employees	Within 7 calendar days of the settlement being funded

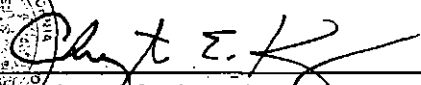
1 2 3 4 5 6 7 8	Last day for Qualified Members and Aggrieved Employees to cash settlement checks	120 days after issuance of checks to Qualified Members and Aggrieved Employees
9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	Last day for Claims Administrator to deliver value of uncashed settlement checks to <i>cy pres</i> beneficiaries	Within 14 days after settlement check cashing deadline
	Last day for Claims Administrator to provide Parties with compliance declaration	Within 21 days after settlement check cashing deadline

IT IS FURTHER ORDERED that this final approval order is effective as a judgment with each party to bear its own fees and costs outside of what has been ordered herein. This matter is subject to the Court's continuing jurisdiction to monitor and enforce the terms of this order and the approved Agreement.

IT IS SO ORDERED.

Date: JUN 15 2022



By: 
Judge of the Superior Court
CHRISTOPHER E. KRUEGER