

Edwin Aiwarzian (SBN 232943)
Arby Aiwarzian (SBN 269827)
Joanna Ghosh (SBN 272479)
LAWYERS for JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203
Tel: (818) 265-1020 / Fax: (818) 265-1021

Attorneys for Plaintiffs and the Class

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA

EDUARDO LEE, individually, and on
behalf of other members of the general
public similarly situated and on behalf of
other aggrieved employees pursuant to the
California Private Attorneys General Act

Plaintiff,

vs.

DEL MONACO FOODS, INC., an
unknown business entity; DEL MONACO
SPECIALTY FOODS, INC., an unknown
business entity; and DOES 1 through 100,
inclusive,

Defendants.

Case No.: **19CV347471**

Honorable Sunil R. Kulkarni

Department 1

**DECLARATION OF CHRISTINA
FOWLER REGARDING NOTICE AND
SETTLEMENT ADMINISTRATION**

Date: September 29, 2022

Time: 1:30 p.m.

Department: 1

1 **DECLARATION OF CHRISTINA FOWLER**

2 I, **CHRISTINA FOWLER** declare the following facts to be true and correct and if called
3 as a witness would testify competently to the same:

4 1. I am employed as a Case Manager by Simpluris, Inc. (“Simpluris”) the claims
5 administrator in the above-entitled action. My business address is 3194-C Airport Loop
6 Drive, Costa Mesa, CA 92626. My telephone number is (714) 640-5644. I am over twenty-
7 one years of age and authorized to make this declaration on behalf of Simpluris and myself.

8 2. Simpluris, Inc. is a Class Action Settlement Administration company located
9 in Costa Mesa, CA. It is founded by individuals who have each managed hundreds of
10 settlements, along with professionals in the areas of Software Development, Third-Party
11 Claims Administration, Mail-House Operations, and Call Center Support Management.

12 3. Simpluris was appointed by the Court as Settlement Administrator to
13 administer the settlement in accordance with the terms of the First Amended Joint
14 Stipulation of Class Action and PAGA Settlement Agreement entered into by the parties
15 on or about April 15, 2022, (the “Settlement Agreement”). Simpluris has been, and if the
16 Court grants final approval of the Settlement, will be responsible for, among other things:
17 (a) printing and mailing in English the Notice of Class Action and PAGA Settlement
18 (“Notice”) (b) receiving undeliverable Notices; (c) receiving and validating requests for
19 exclusion; (d) calculating individual settlement payments, distributing funds, and tax-
20 reporting following final approval; (e) mailing settlement checks; (f) answering questions
21 from Class Members; and (g) performing such other tasks necessary to effectuate the
22 terms of the Settlement or as the Parties mutually agree or the Court orders Simpluris to
23 perform.
24
25
26
27
28

1 4. A toll-free telephone number was included in the Notice for the purpose of
2 allowing the Class Members to call Simpluris and to make inquiries regarding the
3 Settlement. The system is accessible 24 hours a day, 7 days a week, and will remain in
4 operation throughout the settlement process. Callers have the option to speak with a live
5 call center representative in English and Spanish during normal business hours or to leave
6 a message and receive a return call during non-business hours. The toll-free telephone
7 number included in the Notice was 1-888-369-3780.

9 5. On May 6, 2022, Simpluris received the Court-approved Notice. The
10 Notice advised Class Members of their right to opt out from the Settlement, object to the
11 Settlement, or do nothing, and the implications of each such action. The Notice advised
12 Class Members of applicable deadlines and other events, including the Final Approval
13 Hearing, and how Class Members could obtain additional information. The Notice was
14 pre-printed with the name and address of the Class Member and their estimated payment.
15 A copy of the Notice is attached hereto as **Exhibit A**.

16 6. On May 24, 2022, Counsel for Defendants provided Simpluris with a
17 mailing list ("Class Data") containing the name, last known address, Social Security
18 number, and pertinent employment information during the Class Period for the Class
19 Members. The Class Data contained data for three hundred thirty-eight (338) Class
20 Members.
21

22 7. The mailing addresses contained in the Class Data were processed and
23 updated utilizing the National Change of Address Database ("NCOA") maintained by the
24 U.S. Postal Service. The NCOA contains changes of address filed with the U.S. Postal
25 Service. In the event that any individual had filed a U.S. Postal Service change of address
26
27
28

request, the address listed with the NCOA was utilized in connection with the mailing of the Notices.

8. On June 8, 2022, after updating the mailing addresses through the NCOA, Notices were mailed via First Class Mail to three hundred thirty-eight (338) Class Members contained in the Class Data. The deadline for Class Members to submit a Request for Exclusion, Notice of Objection, or dispute Workweek was July 23, 2022.

9. As of this date, twenty-seven (27) Notices were returned by the post office. For those without forwarding addresses, Simpluris attempted to find a forwarding address using Accurant, a reputable research tool owned by Lexis-Nexis. Simpluris used the Class Member's name and previous address to locate a current address. Altogether, Simpluris re-mailed twenty-two (22) Notices to either: a new forwarding address provided by the Post Office, a newfound address using Accurant, or a forwarding address provided by the Class. Ultimately, five (5) Notices were undeliverable.

10. As of today, there are three hundred thirty-eight (338) Settlement Class Members who will be paid their portion of the Net Settlement Amount, estimated to be \$371,250.00. The Net Settlement Amount available to pay Settlement Class Members was determined as follows:

Maximum Settlement Amount:	\$ 700,000.00
Less Attorneys' Fees (Requested)	-\$ 245,000.00
Less Litigation Costs (Requested)	-\$ 25,000.00
Less Plaintiffs' Service Award (Requested)	-\$ 10,000.00
<u>Less Settlement Administration Costs:</u>	<u>-\$ 11,250.00</u>
Less LWDA Payment	-\$ 37,500.00

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

\$ 371,250.00

Based upon the above deductions, the *average* estimated Individual Settlement Payment is \$1,098.37, the *highest* estimated Individual Settlement Payment is \$3,552.25, and the *lowest* estimated Individual Settlement Payment is \$15.93.

11. As of this date, Simpluris has not received any requests for exclusion from the Settlement.

12. As of this date, Simpluris has not received any disputes.

13. Class Members who wished to object were directed to mail a written statement to the Simpluris. As of this date, Simpluris has not received any objections.

14. The most current bid is attached hereto as **Exhibit B**.

15. Simpluris' total costs for services in connection with the administration of this Settlement, including fees incurred and anticipated future costs for completion of the administration, are \$11,250.00. Simpluris' work in connection with this matter will continue with the calculation of the settlement checks, issuance and mailing of those settlement checks, etc., and preparation of the necessary tax reporting on such payments.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 5th day of September 2022, in Kennedale, Texas.

Christina Fowler

Christina Fowler

EXHIBIT A

NOTICE OF CLASS ACTION AND PAGA SETTLEMENT

Edwardo Lee v. Del Monaco Foods, Inc., et al.
Superior Court of California for the County of Santa Clara, Case No. 19CV347471

**THIS IS A COURT-AUTHORIZED NOTICE.
 IT IS NOT A SOLICITATION.
 PLEASE READ THIS NOTICE CAREFULLY.**

«IMbFullBarcodeEncoded»

«FirstName» «LastName»

«Address1» «Address2»

«City», «State» «Zip»-«ZipDPC3»

SIMID «SIMID»
 «Barcode»

You have received this Notice because Defendants' records indicate that you may be eligible to take part in the class action settlement reach in the above-referenced case.

You do not need to take any action to receive a settlement payment.

This Notice is designed to advise you of your rights and options with respect to the settlement, and how you can request to be excluded from the settlement, object to the settlement, and/or dispute the number of Workweeks that you are credited with, if you so choose.

GENERAL INFORMATION

1. Why did I get this notice?

A class and representative action settlement has been reached between Plaintiff Edwardo Lee ("Plaintiff") and Defendants Del Monaco Foods, Inc. and Del Monaco Specialty Foods, Inc. (together, "Defendants") (Plaintiff and Defendants are collectively referred to as the "Parties") in the case entitled, *Edwardo Lee v. Del Monaco Foods, Inc., et al*, Santa Clara Superior Court, Case No. 19CV347471 ("Action"), which may affect your legal rights. On May 4, 2022, the Court granted preliminary approval of the settlement and scheduled a hearing on September 29, 2022 at 1:30 p.m. ("Final Approval Hearing") to determine whether or not the Court should grant final approval of the settlement.

The Settlement is on behalf of a proposed class defined as follows:

All current and former hourly-paid or non-exempt employees who worked for any of the Defendants within the State of California at any time during the Class Period ("Class"). Members of this class are defined as "Class Members."

You received this notice because Defendants' records show that you worked for one of the Defendants as an hourly-paid or non-exempt employee at any time during the period from May 3, 2015 until May 4, 2022 ("Class Period"), and thus that you are a Class Member. This notice explains the Action, the settlement, your legal rights, the benefits available for you, your eligibility for benefits, and how you obtain them.

According to Defendants' records:

From May 3, 2015 until May 4, 2022, you are credited as having worked for Defendants as an hourly-paid or non-exempt employee in the State of California for «MERGED_WW» Workweeks.

Your Individual Settlement Payment (as defined below) is estimated to be approximately \$«MERGED_ClassEstSettAmnt_CALC» based on the number of Workweeks credited to you.

This payment amount is an estimate only; payment will only be distributed if the Court approves the Settlement and after the Settlement goes into effect. The settlement approval process may take multiple months. Your actual payment may be higher or lower.

2. What is this Action about?

On May 3, 2019, Plaintiff Edwardo Lee commenced a putative class action lawsuit by filing the Class Action Complaint for Damages in the Santa Clara Superior Court, Case No. 19CV347471. On November 17, 2020, Plaintiff provided written notice by certified mail (“PAGA Letter”) to the California Labor and Workforce Development Agency (“LWDA”) of his intent to assert claims under the California Labor Code § 2698, *et seq.* (California Labor Code Private Attorneys General Act of 2004) (“PAGA”) and the basis for those claims. On November 12, 2019, Plaintiff filed a First Amended Class Action Complaint for Damages. On March 1, 2021, Plaintiff filed a Second Amended Class Action Complaint for Damages and Enforcement Under the Private Attorneys General Act, Cal. Labor Code § 2698, *Et Seq.* (the “Complaint”). Plaintiff alleges that Defendants violated sections of the California Labor Code and the California Business and Professions Code. Specifically, Plaintiff alleges that Defendants failed to pay all minimum and overtime wages due, failed to provide compliant meal and rest breaks, failed to pay all due final wages upon termination, failed to provide compliant wage statements, failed to keep requisite payroll records, failed to reimburse for all business expenses, and thereby engaged in unfair business practices and conduct that gives rise to penalties under PAGA. Plaintiff seeks, among other things, recovery of unpaid wages and meal and rest period premiums, restitution, penalties, interest, and attorneys’ fees and costs.

Defendants deny the allegations in the Action and the PAGA Letter and contend that it complied with the law.

The Parties participated in mediation with a respected class action mediator, and as a result, the Parties reached a settlement. The Parties have since entered into the Joint Stipulation of Class Action and PAGA Settlement Agreement (“Settlement” or “Settlement Agreement”).

3. Why is this a class action?

In a class action, one or more people called Class Representatives (in this case the Plaintiff), sues on behalf of people who appear to have similar claims, in this case the “Class Members” defined above. One court resolves the issues for all Class Members in one lawsuit, except for those who exclude themselves from the Class. The Action is before the Superior Court of California for Santa Clara County (the “Court”).

4. How do I know if I am part of the Settlement?

If you are included in the definition of a Class Member, then you can participate in the Settlement.

5. Who is Class Counsel?

The Court has appointed Class Counsel listed below to represent your interests in this case:

Edwin Aiwasian
Arby Aiwasian
Joanna Ghosh
Lawyers for Justice, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203
Telephone: (818) 265-1020 / Fax: (818) 265-1021

6. What is the settlement amount and how will the Individual Settlement Payment be calculated?

The Settlement provides that Defendants will pay the amount of seven hundred thousand dollars (\$700,000.00) (the “Maximum Settlement Amount”). The “Net Settlement Amount” is the portion of the Maximum Settlement Amount that will be available for distribution to Class Members who do not submit timely and valid requests for exclusion (“Settlement Class Members”). The Net Settlement Amount is the Maximum Settlement Amount less the following amounts (which are subject to Court approval):

- A. **Class Counsel Award to Class Counsel:** Not to exceed thirty-five percent (35%) of the Maximum Settlement Amount;
- B. **Litigation Costs/Expenses to Class Counsel:** Not to exceed twenty-five thousand dollars (\$25,000.00);
- C. **Service Award to the Class Representative:** Not to exceed ten thousand dollars (\$10,000.00);
- D. **Settlement Administration Costs:** Not to exceed fifteen thousand dollars (\$15,000.00);
- E. **PAGA Penalties:** Fifty thousand dollars (\$50,000.00), of which seventy-five percent (75%), or thirty-seven thousand five hundred dollars (\$37,500.00) shall be paid to the LWDA, and the remaining twenty-five percent (25%), or twelve thousand

five hundred dollars (\$12,500), will remain part of the Net Settlement Amount and distributed to Settlement Class Members.

The portion of the Net Settlement Amount that you are eligible to receive (“Individual Settlement Payment”) will be determined on a *pro rata* basis, based on the number workweeks you worked in California as a Class Member during the Class Period (“Workweeks”). More specifically, “Workweek” means a consecutive seven (7) day period starting on and including Monday through and including Sunday during which time the Class Data reflects that you (a Class Member) worked any amount of time, and does not include weeks when you (a Class Member) were on paid-time-off, a leave of absence, jury duty, or the like for the entire 7-day period. Each Class Member is credited with at least one (1) Workweek.

Your Individual Settlement Payment will be apportioned as twenty-five percent (25%) for wages and seventy-five percent (75%) for non-wage income, penalties, and interest. Each Individual Settlement Payment will be subject to reduction for any legally mandated employee tax withholdings (e.g., employee payroll taxes, etc.) on the wages portion of the Individual Settlement Payment and will be reported on a W-2 Form. Employer-side payroll taxes will be paid separately and in addition to the Maximum Settlement Amount by Defendants. The penalties and interest portions of each Individual Settlement Payment will not be subject to any withholdings and will be reported on an IRS Form 1099.

7. How much will my Individual Settlement Payment be?

You worked «MERGED_WW» Workweeks during to your employment with the Defendants during the Class Period. Your estimated Individual Settlement Payment is \$«MERGED_ClassEstSettAmnt_CALC». The amount of your Individual Settlement Payment may change depending on the number of timely and valid Requests for Exclusion are submitted in the Settlement, if any. This amount is only an estimate. The actual Individual Settlement Payment you receive may be slightly more or less than the estimated amount shown.

Your estimated Individual Settlement Payment was determined based on Defendants’ record of your employment during the relevant Class Period.

8. What can I do if I think that the calculation of my Workweeks is wrong?

If you dispute the accuracy of the calculation of the number of Workweeks that you worked during the Class Period, you must contact the Settlement Administrator, by mail, and provide the following: (1) the case name and number of the Action (*Edwardo Lee v. Del Monaco Foods, Inc., et al.*, Case No. 19CV34747); (2) your name, address, and the last four (4) digits of your Social Security number and/or Employee ID number; (3) the number of Workweeks you contend is the correct number to be credited to you; and (4) any documentation you have supporting your challenge of the calculation, and supporting your calculation. Submission of this information and documents must be postmarked **on or before July 23, 2022**, at the address listed below.

All disputes regarding your Workweeks will be resolved and decided by the Settlement Administrator, and the Settlement Administrator’s decision on all disputes will be final. The Settlement Administrator’s contact information is listed below:

Lee v. Del Monaco Foods Settlement Administrator
P.O. Box 26170
Santa Ana, CA 92799

HOW CAN I GET A PAYMENT?

9. How do I get my Individual Settlement Payment?

You do not need to do anything to get your Individual Settlement Payment after the Court approves the Settlement. You must notify the Settlement Administrator of any change or correction in your contact information. **It is your responsibility to keep the Settlement Administrator informed of any change in your address.**

10. What am I giving up to get an Individual Settlement Payment?

Unless you elect to exclude yourself from the Settlement, you will be bound by all terms of the Settlement and any judgement that may be entered by the Court based thereon and remain a Settlement Class Member for the settlement, which means that you will not be able to sue or be part of any other lawsuit against the “Released Parties” for any of the “Released Claims” in this Action. Specifically, you will be giving up or “releasing” the “Released Claims” described below:

“Released Claims” means all claims and causes of action alleged or which could have been alleged based on the factual allegations in the Complaint, including all of the following: (i) any and all claims for unpaid wages, including claims for minimum, overtime, and double-time wages, the alleged failure to pay for all time worked, the alleged failure to pay for all hours worked at correct rates, including overtime at the correct regular rates to include the use of commissions, non-discretionary bonuses, and other performance pay; (ii) any and all claims for meal period violations, including claims for late, short, interrupted and/or missed meal periods and/or the failure to

pay premium wages, including premiums at the proper rates, and the alleged failure to properly record meal breaks; (iii) any and all claims for rest break violations, including claims for late, short, interrupted and/or missed rest breaks and/or the failure to pay premium wages, including premiums at the proper rates; (iv) any and all claims for unreimbursed expenses, including, but not limited to, expenses incurred for all costs incurred to comply with Defendant's dress code, the costs of necessary personal protective equipment (including insulated pants, thick gloves, and thick socks), the costs of the use of personal cell phones for business related purposes, and mileage; (v) any and all claims for improper or inaccurate itemized wage statements, including any alleged violations of California Labor Code sections 226(a)(1)-(9), and including claims for injuries suffered therefrom; (vi) any and all claims for waiting time penalties under California Labor Code section 203 based on the factual allegations in the Complaint; (vii) any and all claims regarding the alleged failure to maintain required records in violation of California Labor Code §§ 226, 1174 and the applicable IWC Wage Order; (viii) and any and all claims under the California Business & Professions Code (including section 17200 *et seq.*) based on the factual allegations in the Complaint; (ix) any other claims and penalties under the wage and hour laws pleaded in the Complaint, including penalties for alleged violations of Sections 551 and 552 of the California Labor Code; (x) any and all damages, penalties, interest and other amounts recoverable under California and federal law, including the California Labor Code, based on the factual allegations in the Complaint; and (xi) all claims for civil penalties under the PAGA alleged in the Complaint and the PAGA Letter, including alleged violations of Sections 201, 202, 203, 204, 226(a), 226.7, 510, 512, 551, 552, 1174(d), 1194, 1197, 1197.1, 1198, 2800, 2802, and the applicable IWC Wage Order (collectively, the "Released Claims.") The period of the release shall extend to the limits of the Class Period. The res judicata effect of the Judgment will be the same as that of the release.

"Released Parties" means Defendants and their past, present and/or future, direct and/or indirect, officers, directors, members, managers, employees, agents, representatives, attorneys, insurers, partners, investors, shareholders, administrators, parent companies, subsidiaries, affiliates, divisions, predecessors, successors, assigns, and joint venturers.

RIGHTS AND OPTIONS AS A CLASS MEMBER

11. How can I exclude myself from the Settlement?

If you want to exclude yourself from the Settlement and not receive any payments as a result of the Settlement, then you must submit a formal request to be excluded from the Settlement ("Request for Exclusion") in conformity with the requirements described here. **If you exclude yourself, you will not receive an Individual Settlement payment.**

To exclude yourself from the Settlement, you must submit a written Request for Exclusion to the Settlement Administrator. A Request for Exclusion must: (1) state the case name and number of the Action (*Edwardo Lee v. Del Monaco Foods, Inc., et al.*, Case No. 19CV34747); (2) clearly state that you request to be excluded from the Settlement; (3) contain your name; (4) be signed by you; and (5) be mailed to the Settlement Administrator, postmarked by **July 23, 2022**, at the address specified in Section 8 above. Requests for Exclusion which are postmarked after the Response Deadline will not be accepted.

12. If I don't exclude myself, can I sue Defendants for the same thing later?

No. Unless you timely submit a Request for Exclusion, you give up the right to sue Defendants and the Released Parties for the Released Claims. If you have a pending lawsuit involving the Released Claims, speak to your lawyer immediately.

13. How can I object to the Settlement?

If you are a Settlement Class Member (i.e., you have not submitted a written Request for Exclusion), you can object to the Settlement and give your reasons to the Court for why you think the Court should not approve it. Settlement Class Members who wish to object to the Settlement Agreement must mail a written statement of objection ("Notice of Objection") to the Settlement Administrator, postmarked by **July 23, 2022**, at the address specified in Section 8 above. The Notice of Objection must: (1) be signed by you; (2) state the case name and number of the Action (*Edwardo Lee v. Del Monaco Foods, Inc., et al.*, Case No. 19CV34747), your name, address, and the last four (4) digits of your Social Security number and/or Employee ID number; (3) contain the basis and/or grounds for the objection; and (4) state whether you intend to appear at the Final Approval Hearing. You may also appear at the Final Approval Hearing on **September 29, 2022 at 1:30 p.m.** if you wish to make an objection, even if you do not submit a written Notice of Objection.

14. What is the difference between objecting and being excluded?

Objecting is telling the Court that you do not like something about the Settlement. You may only object if you remain a Settlement Class Member. Excluding yourself is telling the Court that you do not want to be a Settlement Class Member. If you submit a Request for Exclusion, you cannot object to the Settlement Agreement.

Any Class Member who requests to be excluded from the Settlement will not be entitled to any recovery under the Settlement Agreement and will not be bound by its terms or have any right to object, appeal, or comment on it.

FINAL APPROVAL HEARING

15. When and where will the Court decide whether to approve the Settlement?

The Court will hold the Final Approval Hearing at 1:30 p.m. on September 29, 2022, in Department 1 of the Superior Court of California for the County of Santa Clara, located at the Downtown Superior Courthouse, 191 North First Street, San Jose, California 95113, to determine whether the Settlement should be finally approved as fair, reasonable, and adequate. The Court will also be asked to approve and award the Class Counsel Award to Class Counsel, the Class Representative Service Award to Plaintiff, and Settlement Administration Costs to the Settlement Administrator.

The hearing may be continued without further notice to Class Members. It is not necessary for you to appear at the Final Approval Hearing, although you may appear remotely if you wish to.

Please note, due to COVID-19, there are limitations on personal appearances and telephonic appearances are an option. You can find information regarding the Court's most current COVID-19 guidelines online at:

https://www.sccscourt.org/general_info/news_media/covid19.shtml.

Hearings before the judge overseeing this case are again being conducted in person. However, remote appearances are still permitted, and are offered with the assistance of a third-party service provider, CourtCall. If that remains the case at the time of the final fairness hearing, Class Members who wish to appear at the final fairness hearing remotely should contact Class Counsel to arrange an appearance through CourtCall, at least three (3) days before the hearing if possible. Any CourtCall fees for an appearance by an objecting Class Member shall be paid by Class Counsel.

16. How will I learn if the Settlement is approved?

A notice of final judgment will be posted on the Settlement Administrator website located at www.simpluris.com/case-information/.

17. What happens if I do nothing at all?

If you do nothing, you will receive your share of the Net Settlement Amount, you will be bound by the terms of the Settlement as approved by the Court, and you will release the Released Claims described in Section 10 above.

GETTING MORE INFORMATION

18. Who may I contact if I have questions about the Settlement?

The above is a summary of the basic terms of the Settlement. For the precise terms and conditions of the Settlement Agreement, you may review the Settlement Agreement and other papers which are on file with the Court.

You may view the Settlement Agreement and other court records in the Action online by entering the Case Number "19CV347471" on the Court's website (<https://portal.sccscourt.org/search>) under the Case Number Search tab. Please note, some documents are now available at no cost but the Court may charge fees to access documents in the future.

PLEASE DO NOT CONTACT THE CLERK OF THE COURT, THE JUDGE, OR DEFENDANTS' MANAGERS, SUPERVISORS, OR THEIR ATTORNEYS FOR INFORMATION REGARDING THIS SETTLEMENT.

IF YOU HAVE ANY QUESTIONS, YOU MAY CALL THE SETTLEMENT ADMINISTRATOR AT THE FOLLOWING TOLL-FREE NUMBER: (888) 369-3780, OR YOU MAY ALSO CONTACT CLASS COUNSEL.

ADDITIONAL IMPORTANT INFORMATION

- 19. The Defendants support the Settlement, and will not retaliate in any manner whatsoever against any Class Member,** whether they choose to stay in the Class as a Settlement Class Member and receive an Individual Settlement Payment, or request to be excluded from the Settlement, or object to the Settlement.
- 20. It is your responsibility to ensure that the Settlement Administrator has your current mailing address and telephone number on file,** as this will be the address to which your Individual Settlement Payment installments will be sent.
- 21. Individual Settlement Payment checks must be cashed soon after receipt.** If the Settlement is approved, you will be mailed your Individual Settlement Payment check. The check will remain valid and negotiable for one hundred eighty (180) days after the date it is issued. If you do not cash the check sent for your Individual Settlement Payment within one hundred eighty (180) days, these funds will be sent to the California State Controller and held by the State Controller's Office Unclaimed Property Fund on your behalf.

Edwardo Lee v. Del Monaco Foods, Inc., et al.

P.O. Box 26170

Santa Ana, CA 92799-9834

IMPORTANT LEGAL DOCUMENT- YOU MAY BE ENTITLED TO MONEY FROM A CLASS ACTION SETTLEMENT AGREEMENT
A PROMPT REPLY IS REQUIRED TO PRESERVE YOUR RIGHTS



Space below the
dashed line is fixed
for postal markings.

EXHIBIT B



3194-C Airport Loop Drive
Costa Mesa, CA 92626
800-779-2104 www.simpluris.com

Estimate #:	13031V2	Prepared By:	Michael Sutherland
Estimate Date:	3/4/2021	Direct Dial #	321.223.5067
		Email:	msutherladn@simpluris.com

Plaintiff Attorney
Attorney/Client: **Tehniat Zaman**
Firm: Lawyers for Justice
Email: [Tehniat.Zaman <tehniat@calljustice.com>](mailto:Tehniat.Zaman<tehniat@calljustice.com>)

Defense Attorney
Attorney/Client:
Firm:
Email:

Case Name: Del Monaco: All-In Settlement

Anticipated Total Cost	\$11,323
Capped Fee*	\$11,250

Terms:

1) Capped Fees assume that Simpluris will receive data in a Single Excel file with no substantial change in class size or response rate.

Total Possible Class Size:	550	Undeliverable Rate:	20%
Response Rate:	1%	Call Rate:	5%
Mailing Document Language:	English	Fund Distribution:	Simpluris
Reminder Postcard:	No	Redistribution:	No
Unclaimed Funds:	Escheat	State(s):	CA
		Federal Tax Return	One Year

Case Setup

Website - Post Order and Settlement Agreement

Data Compilation - Develop Case Specific Response Tracking - Error Reports

Category	Unit Value	# of Units	Total
Project Manager - Case Setup	\$125.00	6	\$750.00
Database Manager - Initial Data Analysis	\$140.00	6	\$840.00
		Total	\$1,590.00

Notification

Notice Packet: 8 pg Notice - Double Sided - English mailing.

Category	Unit Value	# of Units	Total
Mail Notice Packet	\$1.00	550	\$550.00
Postage	\$0.50	550	\$275.00
NCOA/CASS/LACS	\$0.10	550	\$55.00
Undeliverable Processing	\$0.25	110	\$27.50
Skip Trace RUM	\$2.00	110	\$220.00
Remail Notice Packet	\$1.50	94	\$140.25
Remail Postage	\$0.50	94	\$46.75
Mailing Supervisor	\$50.00	2	\$100.00
		Total	\$1,414.50

Call Center

Establish Case Specific Toll Free Number

Category	Unit Value	# of Units	Total
Customer Service Reps / Call Center Support	\$75.00	4	\$300.00
800 # Charges	\$0.10	240	\$24.00
		Total	\$324.00



3194-C Airport Loop Drive
Costa Mesa, CA 92626
800-779-2104 www.simpluris.com

Administration

Process Mail, Opt-Outs or Objections

Category	Unit Value	# of Units	Total
Database Manager	\$125.00	3	\$375.00
Resolving Mismatched TINs	\$75.00	2	\$150.00
Dispute/Deficiencies - Send One Cure Letter	\$2.50	6	\$13.75
Opt Out Processing	\$2.00	6	\$11.00
Data Entry	\$50.00	1	\$50.00
Project Manager	\$125.00	4	\$500.00
Weekly Reporting to Counsel	WAIVED	12 Wks of Reporting	\$0.00
Total			\$1,099.75

Distribution

Setup a Disbursement Account

Print & Mail Checks to Class Members: W2's / 1099's - File Reports with Appropriate Federal & State Taxing Authorities

Account Management & Reconciliation

Category	Unit Value	# of Units	Total
Disbursement Data Preparation	\$140.00	4	\$560.00
Disbursement Manager - Data Validation	\$75.00	2	\$150.00
Setup Banking Account/QSF	\$300.00	1	\$300.00
Print & Mail Check	\$2.50	550	\$1,375.00
Postage	\$0.50	550	\$275.00
Process Returned Checks	\$0.50	6	\$2.75
Skip Trace Search Undeliverable Checks	\$5.00	6	\$27.50
Remail Checks (Includes Postage)	\$4.00	6	\$22.00
QSF Account Reconciliation	\$250.00	1	\$250.00
Individual Federal/State Tax Reporting	\$500.00	1	\$500.00
QSF Reporting/Declaration	\$500.00	1	\$500.00
QSF Annual Tax Preparation Fee(2020)	\$1,000.00	1	\$1,000.00
Email set up, send, calculate, report on findings	\$250.00	1	\$250.00
Reissuing Checks/Mailing	\$5.00	8	\$41.25
Reissue W2's/1099's	\$5.00	8	\$41.25
Responding to IRS, State, Agency Inquiries	\$75.00	2	\$150.00
Unclaimed Funds: Escheat Management	\$350.00	1	\$350.00
Disbursement Manager	\$125.00	4	\$500.00
Total			\$6,294.75



3194-C Airport Loop Drive
Costa Mesa, CA 92626
800-779-2104 www.simpluris.com

Case Wrap Up

Send Final Reports to Counsel

Category	Unit Value	# of Units	Total
Data Manager-Final Reporting	\$125.00	2	\$250.00
Clerical-Clean Up Any Misc	\$50.00	2	\$100.00
Project Manager-Wrap-up Final Issues	\$125.00	2	\$250.00
Total			\$600.00

Postage \$596.75

Total Case Costs

\$11,323.00

All administration services to be provided by Simpluris to Client, are provided subject to the following terms and conditions:

1. **Services.** Simpluris agrees to provide Client those services set forth in the Bid (the "Services") to which these terms and conditions are attached and which has been provided to Client. As compensation for such Services, Client agrees to pay the fees for Services outlined in the Bid. However, Client such fees for Services are estimated based on the requirements provided by Client and actual fees charged by Simpluris may be greater or less than such estimate and Client will be responsible for the payment of all such fees.
2. **Billing and Payment.** Simpluris will invoice Client on a regular basis unless a specific timeframe is otherwise set forth in the Bid. Client shall pay all invoices within 30 days of receipt. Amounts unpaid after thirty (30) days are subject to a service charge at the rate of 1.5% per month or, if less, the highest rate permitted by law. Services are not provided on a contingency basis and Client shall remain liable to Simpluris for all fees for the Services, regardless of any court decisions, and/or actions by the parties, including disapproval or withdrawal of a settlement.
3. **Retention of Documents.** Unless directed otherwise in writing by the Client, Simpluris will destroy all undeliverable mail (except for undeliverable checks) on the date that it is processed and retained in Simpluris' system. Simpluris will maintain records to establish that the subject mail is undeliverable. Simpluris will retain undeliverable checks until the Qualified Settlement Fund is closed. Simpluris will also retain all other class member and putative class member correspondence (including without limitation, claims forms and opt out forms) for one year after final distribution of funds or benefits, or until the date that the disposition of the case is no longer subject to appeal or review, whichever is later. Lastly, Simpluris will retain bank & tax documents for such period of time as it determines is required to maintain compliance with various federal and state requirements.
4. **Limitation of Liability; Disclaimer of Warranties.** Simpluris warrants that it will perform the Services diligently, with competence and reasonable care. Simpluris' only obligation will be to correct any non-conformance with the foregoing warranty. In no event will Simpluris be liable for any lost profits/opportunities, business interruption or delay or, special, consequential, or incidental damages incurred by Client relating to the performance of the Services, regardless of whether Client's claim is for breach of contract, tort (including negligence and strict liability) or otherwise. Under no circumstances will Simpluris be liable to Client for any claims, losses, costs, penalties, fines, judgment or damages, including court costs and reasonable attorney's fees (collectively, "Losses"), whether direct or indirect, arising out of, related to, or in connection with Services in an amount in excess of the total fees charged or chargeable to Client for the particular portion of the Services affected by Simpluris' omission or error. THE WARRANTIES SET FORTH IN THIS SECTION ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE.
5. **Force Majeure.** To the extent performance by Simpluris of any of its obligations hereunder is substantially prevented by reason of any act of God or because of any other matter beyond Simpluris' reasonable control, then such performance shall be excused and this Agreement, at Simpluris' option, be deemed suspended during the continuation of such condition and for a reasonable time thereafter.
6. **Rights in Data.** Client agrees that it will not obtain, nor does Simpluris convey, any rights of ownership in the programs, system data, or materials provided or used by Simpluris in the performance of the Services.
7. **Electronic Communications.** During the provision of the Services the parties may wish to communicate electronically with each other at a business e-mail address. However, the electronic transmission of information cannot be guaranteed to be secure or error free and such information could be intercepted, corrupted, lost, destroyed, arrive late or incomplete or otherwise be adversely affected or unsafe to use. Accordingly, each party agrees to use commercially reasonable procedures to check for the then most commonly known viruses and to check the integrity of data before sending information to the other electronically, but each party recognizes that such procedures cannot be a guarantee that transmissions will be virus free. It remains the responsibility of the party receiving an electronic communication from the other to carry out a virus check on any attachments before launching any documents whether received on disk or otherwise.
8. **Notice.** Any notice required or permitted hereunder shall be in writing and shall be delivered personally, by, or sent by registered mail, postage prepaid, or overnight courier and shall be deemed given when so delivered personally, or, if mailed, five days after the date of deposit in United States mail, or, if sent by courier, one business day after delivery to such courier service. Notice should be addressed to an officer or principal of Client and Simpluris, as the case may be.
9. **Waiver.** Failure or delay on the part of a party to exercise any right, power or privilege hereunder shall not operate as a waiver thereof or any of other subject, right, power or privilege.
10. **Termination.** Client may terminate the Services at anytime upon 30 days prior written notice to Simpluris. Termination of Services shall in no event relieve Client of its obligation make any payments due and payable to Simpluris in respect of Services rendered up to the effective date of Termination. Simpluris may terminate this Agreement (i) for any reason upon no less than 90 days prior written notice to the Client; or (ii) upon 15 calendar days' prior written notice, if the Client is not current in payment of fees.
11. **Jurisdiction.** The parties hereto irrevocably and unconditionally submit to the jurisdiction of the Court of the applicable case for purposes of any suit, action or proceeding to enforce any provision of, or based on any right arising out of, this Agreement. The parties hereto hereby irrevocably and unconditionally waive any objection to the laying of venue of any such suit, action or proceeding in such Court.
12. **Survival.** Any remedies for breach of this Agreement, this Section and the following Sections will survive any expiration or termination of this Agreement: Section 4 - Limitation of Liability; Disclaimer of Warranties, Section 6 – Rights in Data, and Section 12- Jurisdiction, 14 -Confidentiality, and Section 15 – Indemnification.
13. **Entire Agreement.** These Terms and Conditions and the proposal embody the entire agreement between the parties with respect to the subject matter hereof, and cancels and supersedes all prior negotiations, representations, and agreements related thereto, either written or oral, except to the extent they are expressly incorporated herein. No changes in, additions to, or waivers of, the terms and conditions set forth herein will be binding upon any party, unless approved in writing by such party's authorized representative.
14. **Confidentiality.** Simpluris maintains reasonable and appropriate safeguards to protect the confidentiality and security of data provided by Client to Simpluris in connection with the Services. If, pursuant to a court order or other proceeding, a third party requests that Simpluris to disclose any confidential data provided by or for Client, Simpluris will promptly notify the Client unless prohibited by applicable law. Client will then have the option to provide Simpluris with qualified legal representation at Client's expense to defend against such request. If, pursuant to a court order, Simpluris is required to disclose data, produce documents, or otherwise act in contravention of the obligation to maintain confidentiality set forth in these terms and conditions, Simpluris will not be liable for breach of said obligation.
15. **Indemnification.** Client will indemnify and hold Simpluris (and the officers, employees, affiliates and agents harmless against any Losses incurred by Simpluris, arising out of, in connection with, or related to (i) any breach of the terms by Client; (ii) the processing and handling of any payment by Simpluris in accordance with Client's instructions, including without limitation, the imposition of any stop payment or void payment on any check or the wrongful dishonor of a check by Simpluris pursuant to Client's instructions.
16. **Severability.** If any term or condition or provisions of this Agreement shall be held to be invalid, illegal, unenforceable or in conflict with the law of any jurisdiction, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.
17. **Database Administration.** Simpluris' database administration for Client assumes that Client will provide complete data that includes all information required to send notifications and calculate and mail settlement payments. Data must be provided in a complete, consistent, standardized electronic format. Simpluris' standardized format is Microsoft Excel, however, Simpluris may accept other formats at its discretion. Further developments or enhancements to non-standardized data will be billed to Client by Simpluris on a time and materials basis according to Simpluris' Standard Rates.

Simpluris Security Summary – White Paper

Simpluris is committed to the security and overall protection of not only our data and information but our client's data and information, as well. As a demonstration of our commitment, we maintain SOC 2 Certification which requires strict adherence to policies and procedures surrounding information security, including processing and storage of confidential customer data. Simpluris supports a comprehensive, written Information Security Program that complies with all applicable laws and regulations (e.g. HIPAA, Gramm-Leach-Bliley Act, MA 201 CMR 17.00) and is designed to (a) ensure the security, privacy and confidentiality of Client and Class Member Information, (b) protect against any reasonably anticipated threats or hazards to the security or integrity of Client or Class Member Information, and (c) protect against unauthorized access to, use, deletion, or modification of Class Member Information. Simpluris has designated specific employees to be responsible for the administration of its Information Security Program. Also, Simpluris regularly and routinely monitors, tests, and updates our Information Security Program.

Simpluris uses Client and Class Member Information only for the purposes for which its' clients provide it, as described in any Agreements or Court Orders governing the provision of Simpluris' services in any particular case. Simpluris maintains a process for identifying, assessing, and mitigating the risks to Class Member Information in each relevant area of Simpluris' operations. At Simpluris, we continuously evaluate the effectiveness of the safeguards for controlling these risks to data and bank accounts. Simpluris restricts access to Class Member Information only to those employees, agents, or subcontractors who need to know the information to perform their jobs. Simpluris performs background checks of all its employees that will have access to Sensitive Personal Information, including a review of their references, employment eligibility, education, and criminal history to ensure they do not pose a risk to the security of Client or Class Member Information.

Simpluris adheres to the following industry best practices to safeguard its systems which process, store or transmit Client and Class Member Information:

- Identity and Access Management;
- Complex passwords are routinely and regularly changed;
- Role-based access control systems to limit individual employee access to network applications and systems based on their particular job role and function;
- Data Loss Prevention and Intrusion Prevention System software at multiple layers to prevent from internal and external threats of data leaks, malicious activity, and policy violations
- Encryption of Class Member Information if transmitted over public or wireless networks (e.g., via email, FTP, the Internet, etc.);
- Implementation of a Secure File Transfer system (using SSL encryption) for transmitting documents back and forth to clients;
- Encryption of servers, portable media, laptops, desktops, smartphones, mobile devices, and new technologies that store Class Member Information;
- Complex password authentication for remote access to Company's networks;
- Upon hire and annually after that, training of all employees with access to Class Member Information, (including any agents, and subcontractors with access to Class Member Information) about their obligations to implement the Information Security Program;
- Strict disciplinary measures for employees who violate the Information Security Program;
- Preventing terminated employees from accessing Class Member Information;
- Appropriately configured and updated firewall, antivirus, and spyware software;
- Prompt application of vendor-recommended security patches and updates to systems and other applications to avoid any adverse impact on Class Member Information;
- Separation of Duties;
- Infrastructure and Physical Security;
- Business Continuity Planning;
- Disaster Recovery Planning