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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

SALVADOR VENEGAS and SERGIO LAINEZ, on behalf of themselves and on behalf of all persons similarly situated, and on behalf of the State of California, as private attorney generals,

Plaintiff,

vs.

WWF OPERATING COMPANY, LLC, a Limited Liability Company; DANONE NORTH AMERICA PUBLIC BENEFIT CORPORATION, a Corporation; DANONE US, LLC, a Limited Liability Company; and DOES 1 through 50, inclusive,

Defendants.

CASE NO.: **21STCV20991**
[Consolidated with Case No. 21PSCV00643 and Case No. 21PSCV01017]

[PROPOSED] FINAL APPROVAL ORDER AND JUDGMENT

Hearing Date: October 30, 2023
Hearing Time: 9:30 a.m.

Judge: Hon. Maren Nelson
Dept.: 17

Action Filed: June 4, 2021
Trial date: None Set

1 The unopposed motion of Plaintiffs Salvador Venegas and Plaintiff Sergio Lainez
2 (collectively “Plaintiffs”) for an order finally approving the Class Action Settlement Agreement
3 (“Agreement” or “Settlement”) with Defendants WWF Operating Company, LLC, Danone North
4 America Public Benefit Corporation and Danone US, LLC (“Defendants”), attorneys’ fees and
5 costs, service payment, and the expenses of the Administrator duly came on for hearing on
6 October 30, 2023 before the Honorable Maren Nelson.

7 **I.**

8 **FINDINGS**

9 Based on the oral and written argument and evidence presented in connection with the
10 motion, the Court makes the following findings:

- 11 1. All terms used herein shall have the same meaning as defined in the Agreement.
- 12 2. This Court has jurisdiction over the subject matter of this litigation pending before
13 the Superior Court for the State of California, in and for the County of Los Angeles, and over all
14 Parties to this litigation, including the Class.
- 15 3. Based on a review of the papers submitted by Plaintiffs and a review of the
16 applicable law, the Court finds that the Gross Settlement Amount of One Million Two-Hundred
17 Fifty Thousand Dollars (\$1,250,000) and the terms set forth in the Agreement are fair, reasonable,
18 and adequate.
- 19 4. The Court further finds that the Settlement was the result of arm’s length
20 negotiations conducted after Class Counsel had adequately investigated the claims and became
21 familiar with the strengths and weaknesses of those claims. In particular, the amount of the
22 Settlement, and the assistance of an experienced mediator in the settlement process, among other
23 factors, support the Court’s conclusion that the Settlement is fair, reasonable, and adequate.

24 **Preliminary Approval of the Settlement**

- 25 5. On June 29, 2023, the Court granted preliminary approval of the Settlement. At
26 this same time, the Court approved conditional certification of the Class for settlement purposes
27 only.

1 **Notice to the Class**

2 6. In compliance with the Preliminary Approval Order, the Court-approved Class
3 Notice was mailed by first class mail to members of the Class at their last-known addresses on or
4 about July 28, 2023. Mailing of the Class Notice to their last-known addresses was the best notice
5 practicable under the circumstances and was reasonably calculated to communicate actual notice
6 of the litigation and the proposed settlement to the Class. The Class Notice given to the Class
7 Members fully and accurately informed the Class Members of all material elements of the
8 proposed Settlement and of their opportunity to object to or comment thereon or to seek exclusion
9 from the Settlement; was valid, due, and sufficient notice to all Class Members; and complied
10 fully with the laws of the State of California, the United States Constitution, due process and other
11 applicable law. The Class Notice fairly and adequately described the Settlement and provided
12 Class Members adequate instructions and a variety of means to obtain additional information.

13 7. The Response Deadline for opting out or submitting written objections to the
14 Settlement was September 11, 2023, which for re-mailings was extended by fourteen (14) days.
15 There was an adequate interval between notice and the deadline to permit Class Members to
16 choose what to do and to act on their decision. A full and fair opportunity has been afforded to the
17 Class Members to participate in this hearing, and all Class Members and other persons wishing to
18 be heard have had a full and fair opportunity to be heard. Class Members also have had a full and
19 fair opportunity to exclude themselves from the proposed Settlement and Class. Accordingly, the
20 Court determines that all Class Members who did not timely and properly submit a request for
21 exclusion are bound by the Settlement and this Final Approval Order and Judgment.

22 **Fairness of the Settlement**

23 8. The Agreement is entitled to a presumption of fairness. *Dunk v. Ford Motor Co.*
24 48 Cal.App.4th 1794, 1801 (1996).

25 a. The settlement was reached through arm's-length bargaining between the
26 Parties during an all-day mediation before Tripper Ortman, an experienced mediator of wage and
27 hour class actions. There has been no collusion between the Parties in reaching the Settlement.

1 b. Plaintiffs' and their counsel's investigation and discovery have been
2 sufficient to allow the Court and counsel to act intelligently.

3 c. Counsel for all Parties are experienced in similar employment class action
4 litigation. Plaintiffs' counsel recommended approval of the Agreement.

5 d. The percentage of objectors and requests for exclusion is small. No
6 objections were received. One (1) request for exclusion was received.

7 e. The participation rate was high. 359 Class Members will be mailed a
8 settlement payment, representing 99.72% of the overall Class.

9 9. The consideration to be given to the Class Members under the terms of the
10 Agreement is fair, reasonable and adequate considering the strengths and weaknesses of the claims
11 asserted in this action and is fair, reasonable and adequate compensation for the release of Class
12 Members' claims, given the uncertainties and significant risks of the litigation and the delays
13 which would ensue from continued prosecution of the action.

14 10. The Agreement is approved as fair, adequate and reasonable and in the best
15 interests of the Class Members.

16 **Attorneys' Fees and Costs**

17 11. An award of \$416,666 for attorneys' fees, representing one-third of the Gross
18 Settlement Amount, and \$53,000 for litigation costs and expenses, is reasonable, in light of the
19 contingent nature of Class Counsel's fee, the hours worked by Class Counsel, and the results
20 achieved by Class Counsel. The requested award has been supported by Class Counsel's lodestar
21 and billing statement.

22 **Class Representative Service Payments**

23 12. The Agreement provides for a Class Representative Service Payments of not more
24 than \$10,000 to each of the two Plaintiffs, subject to the Court's approval. The Court finds that
25 Class Representative Service Payments in the amount of \$10,000 to each Plaintiff is reasonable in
26 light of the risks and burdens undertaken by the Plaintiffs in this litigation, for their time and effort
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1 in bringing and prosecuting this matter on behalf of the Class, and for their execution of a general
2 release.

3 **Settlement Administration Expenses**

4 13. The Administrator shall calculate and administer the payment to be made to the
5 Class Members, transmit payment for attorneys' fees and costs to Class Counsel, transmit the
6 Class Representative Service Payments to the Plaintiffs, issue all required tax reporting forms,
7 calculate withholdings and perform the other remaining duties set forth in the Agreement. The
8 Administrator has documented \$12,950 in fees and expenses, and this amount is reasonable in
9 light of the work performed by the Administrator.

10 **PAGA Penalties**

11 14. The Agreement provides for a PAGA Penalties out of the Gross Settlement
12 Amount of \$25,000, which shall be allocated \$18,750 to the Labor & Workforce Development
13 Agency ("LWDA") as the LWDA's 75% share of the settlement of civil penalties paid under this
14 Agreement pursuant to the PAGA and \$6,250 to be distributed to the Aggrieved Employees and
15 allocated by (a) dividing the amount of the Aggrieved Employees' twenty-five percent (25%)
16 share of PAGA Penalties (\$6,250) by the total number of PAGA Pay Periods worked by all
17 Aggrieved Employees and (b) multiplying the result by each Aggrieved Employee's PAGA Pay
18 Periods. "Aggrieved Employees" are all individuals who are or previously were employed by
19 Defendants WWF Operating Company, LLC, Danone North America Public Benefit Corporation
20 and Danone US, LLC in California who were classified as hourly, non-exempt employees at any
21 time during the PAGA Period. The PAGA Period is from June 4, 2020 through August 5, 2022.
22 Pursuant to Labor Code section 2699, subdivision (l)(2), the LWDA was provided notice of the
23 Agreement and these settlement terms and has not indicated any objection thereto. The Court
24 finds the PAGA Penalties to be reasonable.

1 II.

2 **ORDERS**

3 Based on the foregoing findings, and good cause appearing, IT IS HEREBY ORDERED:

4 1. The Class is certified for the purposes of settlement only. The Class is hereby
5 defined as follows:

6 All individuals who are or previously were employed by Defendants WWF
7 Operating Company, LLC, Danone North America Public Benefit Corporation and
8 Danone US, LLC in California who were classified as hourly, non-exempt
employees at any time during the Class Period.

9 The "Class Period" is June 4, 2017 through August 5, 2022.

10 2. All persons who meet the foregoing definition are members of the Class, except for
11 those individuals who filed a valid request for exclusion ("opt out") from the Class. The one (1)
12 individual who requested exclusion from the Class was Freddy Bautista.

13 3. The Agreement is hereby finally approved as fair, reasonable, adequate, and in the
14 best interest of the Class.

15 4. Class Counsel are awarded attorneys' fees in the amount of \$416,666 and costs in
16 the amount of \$53,000. Class Counsel shall not seek or obtain any other compensation or
17 reimbursement from Defendant, Plaintiffs or members of the Class.

18 5. The payment of Class Representative Service Payments in the amount of \$10,000
19 to each of the Plaintiffs is approved.

20 6. The payment of \$12,950 to the Administrator for their fees and expenses is
21 approved.

22 7. The PAGA Penalties of \$25,000 is approved to be distributed in accordance with
23 the Agreement.

24 8. Pursuant to Labor Code section 2699, subdivision (1)(2), Class Counsel shall
25 submit a copy of this Final Approval Order and Judgment to the LWDA within 10 days after its
26 entry.

27 9. Neither the Agreement nor this Settlement is an admission by Defendants, nor is
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1 this Final Approval Order and Judgment a finding, of the validity of any claims in the Action or of
2 any wrongdoing by Defendants or that this Action is appropriate for class or representative
3 treatment (other than for settlement purposes). Neither this Final Approval Order and Judgment,
4 the Agreement, nor any document referred to herein, nor any action taken to carry out the
5 Agreement is, may be construed as, or may be used as an admission by or against Defendants of
6 any fault, wrongdoing or liability whatsoever. The entering into or carrying out of the Agreement,
7 and any negotiations or proceedings related thereto, shall not in any event be construed as, or
8 deemed to be evidence of, an admission or concession with regard to the denials or defenses by
9 Defendants. Notwithstanding these restrictions, Defendants may file in the Action or in any other
10 proceeding this Final Approval Order and Judgment, the Agreement, or any other papers and
11 records on file in the Action as evidence of the Settlement to support a defense of *res judicata*,
12 collateral estoppel, release, or other theory of claim or issue preclusion or similar defense as to the
13 Released Class Claims and/or Released PAGA Claims.

14 10. Notice of entry of this Final Approval Order and Judgment shall be given to all
15 Parties by Class Counsel on behalf of Plaintiffs and all Class Members. The Final Approval Order
16 and Judgment shall be posted on Class Counsel's website as set forth in the Class Notice to the
17 Class. It shall not be necessary to send notice of entry of this Final Approval Order and Judgment
18 to individual Class Members.

19 11. If the Agreement does not become final and effective in accordance with the terms
20 of the Agreement, then this Final Approval Order and Judgment, and all orders entered in
21 connection herewith, shall be rendered null and void and shall be vacated, and the Parties shall
22 revert to their respective positions as of before entering into the Agreement, and expressly reserve
23 their respective rights regarding the prosecution and defense of this Action, including all available
24 defenses and affirmative defenses, and arguments that any claim in the Action could not be
25 certified as a class action and/or managed as a representative action.

26 **IT IS HEREBY ORDERED, ADJUDICATED AND DECREED THAT:**

27 1. Except as set forth in the Agreement and this Final Approval Order and Judgment,
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1 Plaintiffs, and all members of the Class, shall take nothing in the Action.

2 2. The Court shall retain jurisdiction to construe, interpret, implement and enforce the
3 Agreement, to hear and resolve any contested challenge to a claim for settlement benefits, and to
4 supervise and adjudicate any dispute arising from or in connection with the distribution of
5 settlement benefits.

6 3. All Parties shall bear their own attorneys' fees and costs, except as otherwise
7 provided in the Agreement and in this Final Approval Order and Judgment.

8 4. Effective on the date when Defendants fully fund the entire Gross Settlement
9 Amount and fund all employer payroll taxes owed on the Wage Portion of the Individual Class
10 Payments, Plaintiffs, Participating Class Members, Aggrieved Employees and the LWDA will
11 release claims against all Released Parties as follows:

12 (a) All Participating Class Members, on behalf of themselves and their
13 respective former and present representatives, agents, attorneys, heirs, administrators, successors,
14 and assigns, release Released Parties from all claims that were alleged, or reasonably could have
15 been alleged based upon the facts alleged, in the Operative Complaint which occurred during the
16 Class Period, including, any and all claims, actions, and causes of action, arising during the Class
17 Period, for: (1) failure to pay wages, including minimum wages, for all time worked pursuant to
18 California Labor Code sections 1194, 1197, and 1197.1 and the IWC Wage Orders; (2) failure to
19 pay overtime wages pursuant to California Labor Code sections 510, 1194, and 1198 and the IWC
20 Wage Orders; (3) failure to provide meal periods pursuant to California Labor Code sections 226.7
21 and 512 and the IWC Wage Orders, or to properly provide meal period premium payments; (4)
22 failure to provide rest periods pursuant to California Labor Code sections 226.7 and 512 and the
23 IWC Wage Orders, or to provide rest period premium payments; (5) failure to pay all wages owed
24 at termination pursuant to California Labor Code sections 201-203 and the IWC Wage Orders; (6)
25 failure to pay all wages in a timely manner during employment pursuant to California Labor Code
26 section 204 and the IWC Wage Orders; (7) failure to furnish accurate itemized wage statements
27 pursuant to California Labor Code section 226(a) and the IWC Wage Orders; (8) failure to
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1 reimburse all necessary business expenses pursuant to California Labor Code sections 2800 and
2 2802 and the IWC Wage Orders; and (9) violations of California Business & Professions Code
3 sections 17200, *et seq.* Except as set forth in this paragraph, Participating Class Members do not
4 release any other claims, including claims for vested benefits, wrongful termination, violation of
5 the Fair Employment and Housing Act, unemployment insurance, disability, social security,
6 workers' compensation, or claims based on facts occurring outside the Class Period.

7 (b) All Aggrieved Employees and the State of California and LWDA are
8 deemed to release, on behalf of themselves and their respective former and present representatives,
9 agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all
10 PAGA claims pled or could have been pled based on the factual allegations contained in the
11 Operative Complaint and PAGA Notices sent by Plaintiffs that occurred during the PAGA Period,
12 including PAGA claims for violations of California Labor Code sections 201, 202, 203, 204,
13 226(a), 226.7, 227.3, 246 *et. seq.* 351, 510, 512(a), 551, 552, 558, 1174(d), 1194, 1197, 1197.1,
14 1198, 2800 and 2802, California Code of Regulations, Title 8, Section 11040, Subdivisions 5(A)-
15 (B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), and
16 IWC Wage Orders 1-2001, 4-2001, and 16-2001. Except as set forth in this paragraph, the
17 Released PAGA Claims do not include other PAGA claims, underlying wage and hour claims,
18 claims for wrongful termination, discrimination, unemployment insurance, disability and worker's
19 compensation, and claims outside of the PAGA Period.

20 (c) Plaintiffs and their respective former and present spouses, representatives,
21 agents, attorneys, heirs, administrators, successors, and assigns generally release and discharge
22 Released Parties from all claims, transactions, or occurrences that occurred during the Class
23 Period, including, but not limited to: (a) all claims that were, or reasonably could have been,
24 alleged, based on the facts contained, in the Operative Complaint and (b) all PAGA claims that
25 were, or reasonably could have been, alleged based on facts contained in the Operative Complaint,
26 Plaintiff's PAGA Notice ("Plaintiffs' Release").

1 Plaintiffs’ Waiver of Rights Under Civil Code Section 1542. For purposes of Plaintiffs’
2 Release, Plaintiffs expressly waive and relinquishes the provisions, rights, and benefits, if
3 any, of section 1542 of the California Civil Code, which reads:

4 A general release does not extend to claims that the creditor or releasing
5 party does not know or suspect to exist in his or her favor at the time of
6 executing the release, and that if known by him or her would have materially
7 affected his or her settlement with the debtor or Released Party.

8 5. For any Class Member whose Individual Class Payment check or Individual PAGA
9 Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the
10 funds represented by such checks to a Court-approved nonprofit organization or foundation
11 consistent with Code of Civil Procedure Section 384(b) (“*Cy Pres* Recipient”). The *Cy Pres*
12 Recipient is Children’s Advocacy Institute.

13 6. The Court hereby enters judgment in the entire Action as of the filing date of this
14 Order and Judgment, pursuant to the terms set forth in the Settlement. Without affecting the
15 finality of this Order and Judgment in any way, the Court hereby retains continuing jurisdiction
16 over the interpretation, implementation, and enforcement of the Settlement and all orders entered
17 in connection therewith pursuant to California Code of Civil Procedure section 664.6.

18 **LET JUDGMENT BE FORTHWITH ENTERED ACCORDINGLY. IT IS SO ORDERED.**

19 Dated: _____

20 _____
21 HON. MAREN NELSON
22 JUDGE OF THE SUPERIOR COURT OF CALIFORNIA
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