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5 UNITED STATES DISTRICT COURT
6 EASTERN DISTRICT OF CALIFORNIA
7 BAKERSFIELD DIVISION
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9 EMMANUEL SALINAS, on behalf of himself
10 and the Class members,

11 Plaintiff,

12 v.

13 NESTLÉ PURINA PETCARE COMPANY;
14 NESTLÉ USA, INC.,

15 Defendants.
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CASE NO. 1:21-CV-01140-JLT-CDB

Judge Jennifer L. Thurston
Magistrate Judge Christopher D. Baker

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
ACTION AND PAGA REPRESENTATIVE
SETTLEMENT**

Date: May 1, 2023

Time: 10:30 a.m.

Ctrm.: 4, 7th Floor

1 The Motion for Preliminary Approval of a Class Action and PAGA Representative Action
2 Settlement filed by Emmanuel Salinas in this Action, came on for hearing before this Court, the
3 Honorable Christopher D. Baker presiding, on May 1, 2023, at 10:30 a.m. Defendants in this Action
4 do not oppose the motion. The Court, having considered the papers submitted in support of the
5 motion and having heard oral argument of the parties, HEREBY ORDERS THE FOLLOWING:

6 1. The Court GRANTS preliminary approval of the settlement based upon the terms set
7 forth in the “Joint Stipulation of Settlement and Release” as attached as Exhibit 1 to the Declaration
8 of Carolyn H. Cottrell in Support of Plaintiff’s Motion for Preliminary Approval of Class Action
9 Settlement (the “Joint Stipulation of Settlement”) and as set forth herein. Capitalized terms in this
10 Order shall have the definitions set forth in the Joint Stipulation of Settlement.

11 2. The Court hereby preliminarily certifies a Settlement Class, a representative action
12 on behalf of PAGA Employees as described in the Joint Stipulation of Settlement, pursuant to the
13 terms and conditions of the Joint Stipulation of Settlement and solely for the purposes set forth
14 therein. The “Settlement Class” is defined as: All persons employed by Defendant in a Job Position
15 at any time during the Class Period. The Settlement Class shall include any heirs, successors, or
16 assigns or purported assigns of the above-described persons. “Job Position” means any non-exempt
17 hourly or non-exempt salaried California job position with Defendant. The “Class Period” means the
18 time period from and including January 29, 2017 through and including February 5, 2023. The
19 “PAGA Employees” on whose behalf the claims under the Private Attorneys General Act are
20 resolved are defined as: all persons who worked in a Job Position at any time from January 29, 2020
21 through and including February 5, 2023.

22 3. The Court hereby finds on a preliminary basis that: (1) the settlement amount is fair
23 and reasonable to the members of the Settlement Class when balanced against the probable outcome
24 of further litigation relating to class certification, liability and damages issues, and appeals; (2)
25 significant discovery, investigation, research, and litigation have been conducted such that counsel
26 for the Parties at this time are able to reasonably evaluate their respective positions; (3) settlement at
27 this time will avoid substantial costs, delay, and risks that would be presented by the further
28 prosecution of the litigation; and (4) the proposed Settlement has been reached as the result of

1 intensive, serious, and non-collusive, arms-length negotiations between the Parties. Accordingly, the
2 Court preliminarily finds that the Settlement was entered into in good faith.

3 4. The Court further preliminarily grants approval of the terms and conditions contained
4 in the Settlement as to Settlement Class Members “who cash, deposit, or otherwise negotiate their
5 checks or otherwise obtain the proceeds for their Class Member Allocation Amounts,” under the Fair
6 Labor Standards Act. The Court finds that the terms of the Settlement are a fair and reasonable
7 resolution of a *bona fide* dispute and that the terms of the Settlement are within the range of possible
8 approval pursuant to the Fair Labor Standards Act and applicable law.

9 5. The Court approves, as to form and content, the Notice of Class Action and PAGA
10 Representative Settlement (the “Class Notice”) in the form attached to the Joint Stipulation of
11 Settlement as Exhibit A. The Court finds that this document fully and accurately apprises Settlement
12 Class Members and PAGA Employees of the material elements of the proposed Settlement, of their
13 rights under the Settlement, including their right to be excluded from the Settlement and their right
14 and opportunity to object to the Settlement. The Court further finds that the Class Notice constitutes
15 the best notice practicable under the circumstances and is in full compliance with the applicable laws
16 and the requirements of due process.

17 6. The Court directs the distribution of the Notice of Class Action and PAGA
18 Representative Settlement in accordance with the schedule and procedures set forth in the Joint
19 Stipulation of Settlement. The Parties are authorized to make non-substantive changes to the
20 proposed Class Notice that are consistent with the terms of the Settlement and this Order.

21 7. The Court hereby approves the proposed procedure for Class Members to request
22 exclusion, which is to submit a written statement requesting exclusion to the Settlement
23 Administrator during the time period permitted pursuant to the Settlement. Any Class Member who
24 submits a written exclusion shall not be Participating Individual, shall be barred from participating
25 in the Rule 23 component of the Settlement, and shall receive no benefit from the Rule 23 component
26 of the Settlement. Settlement Class Members shall be given the full opportunity to object to the Rule
27 23 component of the proposed Settlement and request for attorneys’ fees, and to participate at the
28 Final Approval Hearing.

8. The Court authorizes the retention of and appoints ILYM Services, Inc. as the Settlement Administrator for the purpose of the Settlement, with reasonable administration costs estimated to be \$10,050.

9. For purposes of settlement, the Court finds Carolyn H. Cottrell, Ori Edelstein, and Michelle S. Lim of Schneider Wallace Cottrell Konecky LLP have adequately represented the Settlement Class and are preliminarily appointed as Class Counsel and counsel for the PAGA Employees subject to the Final Approval Hearing.

10. For settlement purposes only, the Court preliminarily (and subject to the Final Approval Hearing) finds that Plaintiff Emmanuel Salinas ("Plaintiff") is an adequate representative of the Settlement Class and PAGA Employees and appoints him as such.

11. A Final Approval Hearing is scheduled for _____ at ____:____ a.m. at the Bakersfield Federal Courthouse, 510 19th Street, Suite 200, Bakersfield, CA 93301. The purpose of such hearing will be to: (a) determine whether the Joint Stipulation of Settlement should finally be approved by the Court as fair, reasonable and adequate; (b) determine the reasonableness of Class Counsel's request for attorneys' fees and costs; (c) determine the reasonableness of the class representative enhancement fee; and (d) order entry of Judgment in the Action.

12. Not later than ____ court days before the Final Approval Hearing, Class Counsel shall file brief(s) requesting final approval of the settlement, an award of reasonable attorneys' fees and costs, and an award of reasonable class representative enhancement fees to the representative of the Settlement Class. All other dates shall be as established by the Joint Stipulation of Settlement.

13. Class Counsel shall provide a copy of the Judgment of Final Approval of Class Action Settlement to the Labor and Workforce Development Agency within ten (10) days after entry of that Judgment.

14. Accordingly, GOOD CAUSE APPEARING, the Court hereby approves the proposed Class Notice and adopts the following dates and deadlines:

Deadline for Defendant to provide the Settlement Administrator with the Class List	Within ten (10) business days after entry of the Preliminary Approval Order.
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Deadline for the Settlement Administrator to Mail the Class Notice to Settlement Class Members	Within fifteen (15) business days after the Settlement Administrator receives the Class List.
Deadline for Settlement Class Members to postmark requests to opt-out or file objections to the Settlement (the “Deadline Date”)	Sixty (60) calendar days after the Settlement Administrator has postmarked the Class Notice for mailing to Settlement Class Members, or within fifteen (15) calendar days after the postmark of a Class Notice re-mailed to a corrected address for that Settlement Class Member, whichever is later.
Deadline for the Settlement Administrator to provide all counsel with a complete list of all Participating Class Members, of all Opt Outs, and of any written objections	No later than fifteen (15) calendar days before the Final Approval Hearing.
Deadline for filing of the Final Approval Motion	Approximately twenty-five (25) calendar days after the Deadline Date, as provided above.
Final Approval Hearing	As provided above.
Effective Date	The date on which the District Court’s judgment approving the Joint Stipulation of Settlement becomes “Final.” The judgement becomes “Final” when the period for appealing or seeking higher court review of the settlement approval and Final Class Judgement has expired, or that any filed appeals or other requests for review have been resolved without right to further appeals or review.
Deadline for Defendant to pay the Maximum Settlement Amount and Employer’s Share of Taxes to the Settlement Administrator	Within ten (10) business days after the Effective Date.
Deadline for Settlement Administrator to make payments under the Settlement to Participating Individuals, the LWDA, Class Representative, Class Counsel, and itself	Within twenty (20) business days after the Effective Date.
Check-cashing deadline	One hundred eighty (180) calendar days from the date of issuance of the check.
Deadline for the Settlement Administrator to send a reminder notice to Participating Class Members and PAGA employees who have not cashed their checks	Within ninety (90) calendar days from the mailing of the check.

1 2 3	Deadline for the Settlement Administrator to provide written certification of completion of administration of the Settlement to counsel for all Parties and the Court	As soon as practicable.
4 5	Deadline for the Settlement Administrator to remit uncashed check funds to the Unclaimed Property Fund	As soon as practicable.
6 7	Deadline for Plaintiff to file a Post-Distribution Accounting Report	As soon as practicable.

8 15. The Court further ORDERS that, pending further order of this Court, all proceedings
9 in the Action, except those contemplated herein and in the Settlement, are stayed, and all deadlines
10 are vacated.

11 16. If for any reason the Court does not execute and file a Final Approval Order and
12 Judgment, the proposed Settlement subject to this Order and all evidence and proceedings had in
13 connection with the Settlement shall be null and void.

14 17. The Court may, for good cause, extend any of the deadlines set forth in this Order or
15 adjourn or continue the final approval hearing without further notice to the Settlement Class.

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17 Dated: _____

The Honorable Christopher D. Baker
U.S. Magistrate Judge
Eastern District of California