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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

ROCIO NAVARRO and JOSE LUIS PEREZ
ESQUEDA, as individuals and on behalf of all
others similarly situated,

Plaintiffs,

vs.

MANNING'S BEEF, LLC, a California
limited liability company; and DOES 1
through 100,

Defendants.

Case No. BC707884

*[Assigned for all purposes to
Hon. Kenneth R. Freeman; Dept. SSC-14]*

**PLAINTIFFS' SUPPLEMENTAL BRIEF
IN SUPPORT OF PLAINTIFFS' MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

Date: December 13, 2022
Time: 10:00 a.m.
Dept.: SSC-14

Action Filed: May 29, 2018
Trial Date: None Set

1 Plaintiffs Rocio Navarro and Jose Luis Perez Esqueda (“Plaintiffs”) submit this
2 Supplemental Brief In Support of Plaintiffs’ Motion for Preliminary Approval of Class Action
3 Settlement. Plaintiffs and Defendant Manning’s Beef, LLC (“Manning’s Beef”) (collectively, the
4 “Parties”) have met and conferred and have amended the Settlement Agreement and Class Notice
5 and otherwise addressed the Court’s concerns, as addressed below.

6 A redlined version of amended Stipulation of Settlement (“Settlement Agreement”),
7 reflecting the changes made to the original Settlement Agreement, is attached to the concurrently-
8 filed Supplemental Declaration of Sean M. Blakely (“Blakely Supp. Decl.”) as **Exhibit 1**. A
9 redlined version of the amended Class Notice, reflecting the changes made to the original Class
10 Notice, is attached to the Blakely Supp. Decl. as **Exhibit 2**. The fully-executed, amended
11 Settlement Agreement is attached to the Blakely Supp. Decl. as **Exhibit 3**. A clean version of the
12 amended Class Notice is attached to the Blakely Supp. Decl. as **Exhibit 4**. Former Plaintiff
13 Santiago Garcia’s June 5, 2018 LWDA Letter is attached as **Exhibit 5** to the Blakely Supp. Decl.
14 Lastly, Plaintiff Navarro’s August 17, 2021 LWDA Letter is attached to the Blakely Supp. Decl.
15 as **Exhibit 6**.

16 **Issue 1: Summary of the Plaintiffs’ Investigation and Discovery Conducted**

17 The August 8, 2022 Checklist for Preliminary Approval of Class Action Settlement
18 requires that the Parties provide a summary of the investigation and discovery conducted,
19 including the specific documents reviewed prior to agreeing to settlement the case. Additionally,
20 Plaintiffs’ counsel is to show that the analysis of the data sampling is statistically reliable.

21 Prior to reaching the proposed Settlement and in connection with the two mediation
22 sessions in this matter, Manning’s Beef produced a sampling of timekeeping and payroll data
23 (“Class Data”), which consisted of Class Data for all Settlement Class members during randomly
24 selected quarters during the Class Period. Blakely Supp. Decl., ¶ 3. The Class Data produced by
25 Manning’s Beef was an approximate 20% sampling for the Class Period. *Id.* Plaintiffs contend
26 that a 20% sampling of records is statistically significant and reliable. *See e.g., Tyson Foods, Inc.*
27 *v. Bouaphakeo*, 136 S. Ct. 1036 (2016). The timekeeping and payroll data produced for mediation
28 was generated from uniform electronic timekeeping and payroll systems, which allowed Plaintiffs

1 to extrapolate their findings with confidence. Blakey Supp. Decl., ¶ 3. In addition, prior to
2 reaching the proposed Settlement and in connection with the two mediation sessions in this
3 matter, Manning’s Beef produced to Plaintiffs all relevant wage and hour policies and other
4 information, which allowed Plaintiffs to assess the merits and value of the claims alleged, the
5 chances of class certification, and Manning’s Beef’s potential defenses. *Id.*

6 **Issue 2: Evidence Regarding Defendant’s Financial Situation**

7 The August 8, 2022 Checklist for Preliminary Approval of Class Action Settlement
8 requires that the Parties provide admissible evidence of Defendant’s financial situation.

9 Contemporaneous with the filing of this Supplemental Brief, Manning’s Beef is filing a
10 Motion to Seal and lodging with the Court the financial records that were relied upon when the
11 Parties negotiated the Settlement. *See* Blakely Supp. Decl., ¶ 4.

12 **Issue 3: LWDA Notification Letters**

13 The August 8, 2022 Checklist for Preliminary Approval of Class Action Settlement
14 requires that Plaintiffs’ provide the Court with a copy of the LWDA Letters for this matter.

15 Plaintiffs have submitted a copy of former Plaintiff Santiago Garcia’s June 5, 2018 LWDA
16 Letter, and Plaintiff Navarro’s August 17, 2021 LWDA Letter. *See* Blakely Supp. Decl., Exhs. 5-
17 6.

18 **Issue 4: Fee Split**

19 The August 8, 2022 Checklist for Preliminary Approval of Class Action Settlement
20 requires that Plaintiffs’ counsel clarify whether there is a fee split agreement.

21 Plaintiffs have consented to a written fee-split agreement between Haines Law Group,
22 APC (“HLG”) and the referring attorneys, Moon & Yang, APC (“MY”). *See* Blakely Supp. Decl.,
23 ¶ 5. Pursuant to the fee-split agreement, HLG will receive 75% of the attorneys’ fees and MY will
24 receive 25% of the attorneys’ fees. *Id.*

25 **Issue 5: Separate Release for the PAGA Claim**

26 The August 8, 2022 Checklist for Preliminary Approval of Class Action Settlement
27 requires that there be a separate release for the PAGA claim tied to the facts alleged in the LWDA
28 Letters submitted to the LWDA. Additionally, the Parties are to remove references to PAGA in

the section of Settlement Agreement pertaining to Class Members' Released Claims.

The Parties have revised the Settlement Agreement to separately define the release for the PAGA claim, which is tied to the facts alleged in the LWDA Letters submitted to the LWDA. *See* Blakely Supp. Decl., Exhibits 1 and 3, ¶ 2.B; *see also* Exhibits 5-6. The Parties also removed all references to PAGA in the section of Settlement Agreement pertaining to Settlement Class members' Released Claims. Blakely Supp. Decl., Exhibits 1 and 3, ¶ 2.A.

Issue 6: Release Effective Date

The August 8, 2022 Checklist for Preliminary Approval of Class Action Settlement stated that the Parties should consider making the release pertaining to Class Members' Released Claims is effective as of the date of the Gross Settlement Amount is fully funded.

The Parties have revised the Settlement Agreement such that the release pertaining to Settlement Class members' Released Claims is effective as of the date the Gross Settlement Amount is fully funded. *See* Blakely Supp. Decl., Exhibits 1 and 3, ¶ 2.A.

Issue 7: Payment Formula

The August 8, 2022 Checklist for Preliminary Approval of Class Action Settlement requires that the Parties clarify why it is appropriate to use a formula that allocates the Net Settlement Fund as follows: (1) 80% to Settlement Class Members; (2) 10% to the wage statement claim; and (3) 10% to the waiting time penalties claim.

Plaintiffs contend that the above formula is appropriate as each participating Settlement Class member will be paid based on the extent of his or her injury. For example, Plaintiffs allege that Manning's Beef is liable for waiting time penalties pursuant to Labor Code §§ 201-203 due to its failure to compensate Settlement Class members for all minimum and overtime wages and all meal and rest period premiums. Because waiting time penalties are only available to former employees, Plaintiffs contend that only those former employees who separated employment during the statute of limitations period applicable to Labor Code §§ 201-203 should be able to recover those penalties. Plaintiffs contend that the proposed recovery formula for compensating Settlement Class members is fair, adequate, and reasonable as it is tethered to the damages and penalties that could be recovered by each Settlement Class member.

Issue 8: Provide the Tax Allocation of PAGA Payments

The August 8, 2022 Checklist for Preliminary Approval of Class Action Settlement requires that the Parties provide the tax allocation for the PAGA payments.

The Parties have revised the Settlement Agreement to indicate that any payment from the PAGA Amount will be treated as one hundred percent (100%) penalties. *See* Blakely Supp. Decl., Exhibits 1 and 3, ¶ 4.E.

Issue 9: Payments to Class Counsel, Settlement Administrator, and the LWDA

The August 8, 2022 Checklist for Preliminary Approval of Class Action Settlement requires that the Parties indicate how and when payments to Class Counsel, the Settlement Administrator, and the LWDA will be processed. Will it also be within 21 days after the Gross Settlement Amount has been fully funded?

The Parties have revised the Settlement Agreement to state that the Settlement Administrator shall pay the amounts approved by the Court for Class Counsel’s attorneys’ fees and costs, Plaintiffs’ Class Representative Enhancement Awards, PAGA payment to the LWDA, and Settlement administration costs to itself, after it mails Settlement Awards to Settlement Class members. *See* Blakely Supp. Decl., Exhs. 1 and 3, ¶ 4.D.

Issue 10: Workweek Disputes

The August 8, 2022 Checklist for Preliminary Approval of Class Action Settlement states: “Will Class Members who receive re-mailed notices be given an extended deadline to submit workweek disputes?”

The Parties have revised the Settlement Agreement to provide Settlement Class members’ an extended deadline to submit workweek disputes. *See* Blakely Supp. Decl., Exhs. 1 and 3, ¶¶ 9.E and 9.H.

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1 **Issue 11: Requests for Exclusion**

2 The August 8, 2022 Checklist for Preliminary Approval of Class Action Settlement
3 requires that the Parties clarify that Class Members need not use specific language to request
4 exclusion from the Settlement.

5 The Parties have made the requested revision to the Class Notice. *See* Blakely Supp. Decl.,
6 Exhs. 2 and 4, pg. 6.

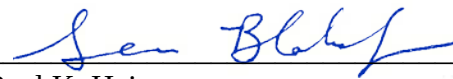
7 **CONCLUSION**

8 Based on the above, Plaintiffs respectfully request that the Court sign the [Amended
9 Proposed] Order Granting Preliminary Approval of Class Action Settlement, filed concurrently
10 herewith.

11 Dated: November 17, 2022

HAINES LAW GROUP, APC

12
13 By:



Paul K. Haines

Sean. M. Blakely

Attorneys for Plaintiffs