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Superior Court of California
County of Santa Cruz
August 17, 2023
Clerk of the Court by Deputy,
Hanson, Helena

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SANTA CRUZ

ESTEBAN ARTEAGA, JR., individually, and on
behalf of all others similarly situated,

Plaintiff,

vs.

DEL MAR FOOD PRODUCTS CORP., a
California corporation; and DOES 1 through 10,
inclusive,

Defendant.

Case No.: 21CV03094

[Assigned for all purposes to: Hon. Timothy R.
Volkman, Dept. 5]

CLASS ACTION

**[AMENDED PROPOSED] ORDER
GRANTING FINAL APPROVAL OF CLASS
ACTION SETTLEMENT**

Date: August 8, 2023
Time: 8:30 a.m.
Courtroom: 5
Judge: Hon. Timothy R. Volkman

Action Filed: December 29, 2021
Trial Date: Not Set

1 **TO ALL PARTIES AND THEIR COUNSEL OF RECORD:**

2 This matter came on for hearing on August 8, 2023, upon Plaintiff's Motion for Final Approval
3 of the proposed settlement of this action on the terms set forth in the JOINT STIPULATION OF CLASS
4 AND REPRESENTATIVE ACTION SETTLEMENT (the "Agreement") *see* Declaration of H. Scott
5 Leviant In Support of Plaintiff's Motion for Final Approval of Class and Representative Action
6 Settlement ["Leviant Decl."], at Exh. 1).

7 After reviewing the Agreement, the Notice process, having reviewed the entire record on this
8 action, having heard the argument of Counsel for respective Parties, if any, and good cause appearing,
9 the Court Orders as follows:

10 1. To the extent defined in the Agreement, the terms in this Order shall have the meanings
11 set forth therein.

12 2. The Court finds that the Settlement has been reached as a result of intensive, serious and
13 non-collusive arms-length negotiations. The Court further finds that the parties have conducted
14 thorough investigation and research, and the attorneys for the parties are able to reasonably evaluate
15 their respective positions. The Court also finds that settlement at this time will avoid additional
16 substantial costs, as well as avoid the delay and risks that would be presented by the further prosecution
17 of the action. The Court finds that the risks of further prosecution are substantial.

18 3. The parties' Settlement is granted final approval as it meets the criteria for final
19 settlement approval. In granting final approval of the class action settlement the Court has considered
20 the factors identified in *Dunk v. Ford Motor Co.*, 48 Cal. App. 4th 1794 (1996), as approved in *Wershba*
21 *v. Apple Computer, Inc.*, 91 Cal. App. 4th 224 (2001) and *In re Microsoft IV Cases*, 135 Cal. App. 4th
22 706 (2006). The Court finds that the terms of the proposed class action Settlement are fair, reasonable,
23 and adequate, pursuant to California Code of Civil Procedure § 382. The settlement falls within the
24 range of possible approval as fair, adequate and reasonable, and appears to be the product of arm's-
25 length and informed negotiations and to treat all Class Members fairly. The Class meets the
26 requirements for conditional certification for settlement purposes only under Code of Civil Procedure
27 § 382.

1 4. The Class Notice provided to the Class conforms with the requirements of Code of
2 Civil Procedure § 382, Civil Code § 1781, Rules of Court 3.766 and 3.769, the California and United
3 States Constitutions, and any other applicable law, and constitutes the best notice practicable under the
4 circumstances, by providing individual notice to all Class Members who could be identified through
5 reasonable effort, and by providing due and adequate notice of the proceedings and of the matters set
6 forth therein to the other Class Members. The Class Notice fully satisfied the requirements of due
7 process.

8 5. The following persons are certified as Class Members solely for the purpose of entering
9 a settlement in this matter:

10 “Class” means all hourly-paid, non-exempt employees who, during either the
11 Class Period, have previously been or currently are employed in California by
12 Defendant, as an hourly-paid, non-exempt employee. The “Class Period” is December
13 29, 2017, through January 16, 2023. “Participating Class Members” means all Class
Members who have not submitted a complete, valid, and timely request to be excluded
from the Settlement pursuant to the instructions provided in the Class Notice.
(Settlement, ¶¶ 2, 7, 24);

14 6. The Court also defines the following “PAGA Group” impacted by the proposed
15 settlement of PAGA claims:

16 “PAGA Group” means all hourly-paid, non-exempt hourly employees, who
17 during the “PAGA Period” have previously been or currently are employed in
18 California by Defendant. The “PAGA Period” means the period of time from December
29, 2020 through January 16, 2023. (Settlement, ¶¶ 21, 23.)

19 7. Plaintiff ESTEBAN ARTEAGA, JR is appointed as the Class Representative. The
20 Court finds Plaintiff’s counsel are adequate, as they are experienced in wage and hour class action
21 litigation and have no conflicts of interest with absent Class Members, and that they adequately
22 represented the interests of absent class members in the Litigation. Kane Moon, H. Scott Leviant, and
23 Mariam Ghazaryan, of Moon Law Group, PC, are appointed Class Counsel.

24 8. The Court appoints Phoenix Settlement Administrators to act as the Settlement
25 Administrator, pursuant to the terms set forth in the Agreement.

26 9. No Class Members timely requested exclusion from the Class. All Class Members are
27 Participating Class Members and remain bound by the Final Approval Order and Judgment in the
28

1 Action. No Class Members who worked during the PAGA Period have the right to exclude themselves
2 from the Settlement with respect to resolution of the PAGA Claims.

3 10. Upon entry of this Final Approval Order and the Judgment, funding of the Settlement
4 and compensation to the Class Members shall be implemented pursuant to the terms of the Settlement.

5 11. In addition to any recovery that Plaintiff may receive under the Settlement as Class
6 Members, and in recognition of the Plaintiff's efforts on behalf of the Settlement Class, the Court
7 hereby approves the payment of an enhancement award to Plaintiff ESTEBAN ARTEGA, JR in the
8 amount of \$7,500.00.

9 12. The Court approves the payment of attorneys' fees to Class Counsel in the total amount
10 of \$321,666.67 to Moon Law Group, PC. Litigation expenses are approved by the Court in the amount
11 of \$14,682.85.

12 13. The Court approves and orders payment in the amount of \$18,000.00 to Phoenix
13 Settlement Administrators for performance of its services as the Settlement Administrator.

14 14. Upon completion of administration of the Settlement, the Parties shall file a declaration
15 stating that all amounts payable under the Settlement have been paid and that the terms of the
16 Settlement have been completed.

17 15. The Court sets a case review hearing regarding compliance with all fund distribution
18 requirements under the Settlement for February 29, 2024, in Dept. 5 of the above-entitled Court. A
19 Final Report, including any declaration from the Settlement Administrator regarding compliance, shall
20 be filed with the Court no later than February 22, 2024.

21 16. The Court approves and orders payment in the amount of \$60,000.00 to the Labor and
22 Workforce Development Agency in compromise of claims under the Labor Code Private Attorneys
23 General Act of 2004 (Labor Code § 2698 *et seq.*). Further, \$20,000.00 shall be distributed to
24 Aggrieved Employees as required under the Settlement.

25 17. Once Defendant fully funds the Settlement by paying all amounts due under the
26 Settlement, the Class Representative, the Class and each Class Member who has not submitted a valid
27 and timely request for exclusion as to claims other than the PAGA claim, and each PAGA Employee,
28

1 regardless of whether they have requested exclusion from the Settlement of Class claims, will release
2 claims as follows:

3 Upon the Effective Date, and after the settlement has been fully funded, Plaintiff and
4 the PAGA Group Members will be deemed to have fully released and discharged all
Released Parties of and from all the PAGA Released Claims.

5 Upon the Effective Date, and after the settlement has been fully funded, Plaintiff and
6 Participating Class Members will be deemed to have fully released and discharged all
Released Parties of and from all the Class Released Claims.

7 “Participating Class Members Released Claims” means all causes of action and claims
8 that were alleged in the Action or reasonably could have been alleged based on the facts
and legal theories contained in the Action, including all of the following claims for
9 relief: (i) failure to pay all regular wages, minimum wages and overtime wages due
(Lab. Code §§ 510, 558, 1194, 1194.2, 1197, 1197.1, & 1198); (ii) failure to provide
10 compliant meal periods (Lab. Code §§ 226.7 & 512); (iii) failure to provide compliant
rest breaks (Lab. Code § 226.7); (iv) failure to timely pay wages during employment
11 (Lab. Code §§ 204 & 210); (v) failure to provide complete, accurate wage statements
(Lab. Code § 226); (vi) failure to maintain accurate employment and payroll records
(Lab. Code §§ 1174 & 1174.5); (vii) failure to pay wages timely at time of termination
12 or resignation (Lab. Code §§ 201-203); (viii) failure to indemnify all necessary business
expenses (Lab. Code §§ 2800, et seq.); (ix) unfair business practices that could have
13 been premised on the claims, causes of action or legal theories of relief described above
or any of the claims, causes of action or legal theories of relief pleaded in the operative
14 complaint (Cal. Bus. & Prof. Code § 17200, et seq.); (x) any claim for costs and
attorneys’ fees and expenses; and (xi) any claim arising from the claims described
15 above under applicable federal, state, local or territorial law as well as applicable
regulations and Wage Orders. The claims will be released for Class Members who
16 worked for Defendant in California during the Class Period.

17 “PAGA Group Released Claims” means claims for civil penalties pursuant to PAGA
based upon all causes of action and claims that were alleged in the Action or reasonably
18 could have been alleged based on the facts and legal theories contained in the Action,
and/or the LWDA Exhaustion Letter including all of the following claims for relief: (i)
19 failure to pay all regular wages, minimum wages and overtime wages due (Lab. Code
§§ 510, 558, 1194, 1194.2, 1197, 1197.1, & 1198); (ii) failure to provide compliant
20 meal periods (Lab. Code §§ 226.7 & 512); (iii) failure to provide compliant rest breaks
(Lab. Code § 226.7); (iv) failure to timely pay wages during employment (Lab. Code §§
21 204 & 210); (v) failure to provide complete, accurate wage statements (Lab. Code §
226); (vi) failure to maintain accurate employment and payroll records (Lab. Code §§
22 1174 & 1174.5); (vii) failure to pay wages timely at time of termination or resignation
(Lab. Code §§ 201-203); (viii) failure to indemnify all necessary business expenses
23 (Lab. Code §§ 2800, et seq.); (ix) all claims under the California Labor Code Private
Attorneys General Act of 2004 that could have been premised on the claims, causes of
24 action or legal theories described above or any of the claims, causes of action or legal
theories of relief pleaded in the Action; (x) any claim for costs and attorneys’ fees and
25 expenses; and (xi) any claim arising from the claims described above under applicable
federal, state, local or territorial law as well as applicable regulations and Wage Orders.
26 The claims will be released for PAGA Group Members who worked for Defendant in
California during the PAGA Period.

27 “Complaint” means the First Amended Class Action Complaint, or any subsequently
28 amended complaint filed thereafter in the Action.

1 18. The Parties are ordered to give notice of this final Order and Judgment to the LWDA,
2 pursuant to Labor Code § 2699(1)(3).

3 19. The Court hereby directs the Parties to effectuate the terms of the Settlement as set forth
4 in the Settlement Agreement.

5 20. The Court retains jurisdiction to consider all further applications arising out of or in
6 connection with the settlement.

7
8 **IT IS SO ORDERED.**

9
10 Dated: 8/17/2023 8:25:26 AM



Hon. Timothy R. Volkmann
SANTA CRUZ SUPERIOR COURT JUDGE

EXHIBIT A

LAW AND MOTION TENTATIVE RULINGS
DATE: AUGUST 8, 2023 TIME: 8:30 A.M.

No. 21CV03094

ARTEAGA v. DEL MAR FOOD PRODUCTS CORP.

**(UNOPPOSED) MOTION FOR FINAL APPROVAL OF CLASS ACTION
SETTLEMENT**

The motion is granted. Based on the pleadings submitted, the settlement is entitled to a presumption of fairness and no evidence having been presented to overcome the presumption, the motion for final approval is granted.

The fees and costs requested appear to be reasonable, therefore the motion for attorney's fees, legal costs, and incentive award is granted.

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA)
3) ss
4 COUNTY OF LOS ANGELES)

5 I am employed in the county of Los Angeles, State of California. I am over the age of 18
6 and not a party to the action; my business address is 1055 West Seventh Street, Suite 1880, Los
7 Angeles, California 90017. On August 15, 2023, I served the foregoing document described as:

8 **[AMENDED PROPOSED] ORDER GRANTING FINAL APPROVAL OF CLASS ACTION
9 SETTLEMENT**

10 X by placing ___ the original X a true copy thereof enclosed in sealed envelope(s)
11 addressed as follows:

12 Matthew C. Sgnilek
13 Andrea Rosenkranz
14 Virginia Tomlinson
15 **O'HAGAN MEYER**
3200 Park Center Drive, Suite 700
Costa Mesa, CA 92626
msgnilek@ohaganmeyer.com
arosenkranz@ohaganmeyer.com
vtomlinson@ohaganmeyer.com

16 *Attorney for Defendant Del Mar Food Products Corp.*

17 [✓] **BY E-MAIL:** I hereby certify that this document was served from Los Angeles,
18 California, by e-mail delivery on the parties listed herein at their most recent known
19 e-mail address or e-mail of record in this action.

20 X (State) I declare under penalty of perjury under the laws of the State of
21 California that the above is true and correct.

22 Executed on August 15, 2023, at Los Angeles, California.

23 Ximena Reyes

/S/ Ximena Reyes

24 Name

25 Signature