

100
5/17

Kane Moon, Esq. (SBN 249834)
Allen Feghali, Esq. (SBN 301080)
Lannie Pham, Esq. (SBN 342139)
MOON LAW GROUP, PC
1055 W. Seventh Street, Suite 1880
Los Angeles, California 90017
Telephone: (213) 232-3128
Facsimile: (213) 232-3125
E-mail: kmoon@moonlawgroup.com
E-mail: afeghali@moonlawgroup.com
E-mail: lpham@moonlawgroup.com

MAY 07 2024
d
PHANIE BOHRER, CLERK
Alison Little
DEPUTY

Attorneys for Plaintiff, Hailey Gerolaga

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN JOAQUIN**

HAILEY GEROLAGA, individually, and on
behalf of all others similarly situated,

Plaintiff,

vs.

LEE'S FEED & WESTERN STORE, INC., a
California corporation; and DOES 1 through 10,
inclusive,

Defendants.

Case No.: STK-CV-UOE-2022-0001447

CLASS AND REPRESENTATIVE ACTION

[Honorable Barbara Kronlund,
Department 10D]

~~PROPOSED~~ ORDER GRANTING
FINAL APPROVAL OF CLASS AND
PAGA ACTION SETTLEMENT

[Filed with Plaintiff's Notice of Motion and
Memorandum of Points and Authorities,
Declarations of Kane Moon, Plaintiff, and
Gillian McCreedy, and [Proposed] Judgment]

FINAL APPROVAL HEARING:

Date: May 7, 2024
Time: 9:00 a.m.
Dept.: 10D

Complaint Filed: February 25, 2022
Trial Date: Not set

APR 15 2024

BY FAX

[PROPOSED] FINAL APPROVAL ORDER

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

On November 14, 2023, the Court entered an Order which granted Plaintiff's Motion for Preliminary Approval of Class and PAGA Action Settlement, granted conditional class certification, approved the format of the Class Notice, and set a Final Approval Hearing (the "Preliminary Approval Order"), thereby preliminarily approving a settlement of the above-entitled action (the "Action") that was reached between Plaintiff Hailey Gerolaga ("Plaintiff") and Defendant Lee's Feed & Western Store, Inc. ("Defendant") (together with Plaintiff, the "Parties"), in accordance with the Parties' Joint Stipulation of Class and PAGA Action Settlement (the "Settlement"). The Settlement was attached as **Exhibit 1** to the Declaration of Kane Moon in Support of Plaintiff's Motion for Preliminary Approval of Class and PAGA Action Settlement that was filed on October 12, 2023.

The Court now has before it Plaintiff's Motion for Final Approval of Class and PAGA Action Settlement, including a motion for payment of Attorneys' Fees, Attorneys' Costs, Service Payment, Settlement Administration Costs, and PAGA Allocation, and whether the Settlement should be finally approved as fair, reasonable, and adequate as to Class Members (collectively "Motion for Final Approval"), as well as a [Proposed] Final Approval Order.

Due and adequate notice having been given to Class Members, and the Court having reviewed the Settlement and duly considered Plaintiff's Motion for Final Approval, the supporting declarations and exhibits thereto, all other papers filed and proceedings had hereto, the record in this Action, and any oral argument, and good cause appearing.

THE COURT HEREBY ORDERS AND DECREES AS FOLLOWS:

1. The Court, for purposes of this Final Approval Order, refers to all terms and definitions as set forth in the Settlement.

2. Plaintiff's Motion for Final Approval came before Department 10D of this Court, the Honorable Barbara Kronlund presiding, on May 7, 2024.

3. The Court finds that the Settlement was made and entered into in good faith, the terms of which are fair, reasonable, and adequate; was reached following meaningful discovery and

1 investigation conducted by Plaintiff and her counsel of record ("Class Counsel"); is the result of
2 serious, informed, adversarial, and arms-length negotiations between the Parties; and therefore,
3 meets the requirements for final approval. In so finding, the Court has considered all the evidence
4 presented, including evidence regarding the strength of Plaintiff's claims; the risk, expense, and
5 complexity of the claims presented; the likely duration of further litigation; the settlement amount
6 offered; the extent of investigation and discovery completed; and the experience and views of Class
7 Counsel. The Court has further considered the absence of any objections or Requests for Exclusion
8 from the Settlement. Accordingly, the Court hereby **GRANTS** Plaintiff's Motion for Final
9 Approval and **ORDERS** Judgment to be entered in accordance with the terms herein.

10 4. The Court certifies, for settlement purposes only, the following Class (the "Settlement
11 Class Members"): All current and former hourly-paid or non-exempt employees who have worked
12 for Defendant in the State of California at any time during the Class Period, meaning from February
13 25, 2018 through November 14, 2023. Excluded from the Settlement Class are all Class Members
14 who submit a timely and valid Opt Out Request from the Settlement.

15 5. Notwithstanding the submission of a timely Opt Out Request, Class Members are still
16 bound by the settlement and release of the Settled PAGA Claims or remedies under the Judgment
17 pursuant to *Arias v. Superior Court* (2009) 46 Cal. 4th 969, as requests to be excluded from the
18 Settlement do not apply to the Settled PAGA Claims.

19 6. The deadline for Class Members to submit an Opt Out Request or to submit written
20 objections to the Settlement was April 9, 2024.

21 7. One Opt Out Requests was received from Joeseeph Henrey Lewis. Accordingly, this
22 individual is excluded from the Settlement Class and 468 Class Members remain in the Settlement
23 Class.

24 8. All Class Members had an opportunity to object to the Settlement. No written
25 objections were received.

26 9. The Court Approved Notice of Class and PAGA Action Settlement (the "Class
27 Notice"), which was attached to the Settlement as **Exhibit A** and provided to the Class pursuant to
28 the plan for distribution described under the Settlement, conformed with the requirements of rules

1 3.766 and 3.769 of the California Rules of Court, and constituted the best notice practicable under
2 the circumstances, by providing individual and adequate notice of the proceedings and of the matters
3 set forth therein to Class Members. The Class Notice fully satisfied the requirements of due process
4 and provided the Class Members with adequate instructions and a variety of means to obtain
5 additional information.

6 10. A full opportunity has been afforded to Class Members to participate in the Final
7 Approval Hearing, and all Class Members and other persons wishing to be heard have been heard
8 and/or had an opportunity to be heard. Class Members have had a full and fair opportunity to exclude
9 themselves from, or object to, the Settlement. Accordingly, the Court determines that all Class
10 Members who did not submit a timely Opt Out Request ("Settlement Class Members") are bound by
11 this Final Approval Order and the concurrently filed Judgment.

12 11. Release of Settled Claims. As of the Effective Date and after payment of all funds due
13 under the terms of this Settlement, Named Plaintiff and all Settlement Class Members hereby do and
14 shall be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and
15 discharged any and all Settled Claims against any and all Released Parties. (Settlement, ¶ 48)

16 a. Released Parties. "Released Parties" means Defendant and each of its owners,
17 members, partners, shareholders, agents, assigns, subsidiaries, affiliates,
18 predecessors, successors, parent companies, and organizations. (Settlement, ¶ 30).

19 b. The Settlement includes a release of all Settled Claims during the Class Period by
20 Settlement Class Members. The Parties agree that it is their intent that the terms set
21 forth in this Agreement will release any further attempt, by lawsuit, administrative
22 claim or action, arbitration, demand, or other action of any kind, by each and every
23 Settlement Class Member to obtain any recovery based on Settled Claims.
24 (Settlement, ¶ 48) The Parties agree for settlement purposes only that, because the
25 Class Members are so numerous, it is impossible or impracticable to have each
26 Class Member execute this Agreement. Accordingly, the Class Notice will advise
27 all Class Members of the binding nature of the release of Settled Claims and Settled
28 PAGA Claims and such notice shall have the same force and effect as if the

1 Agreement were executed by each Class Member. (Settlement, ¶ 48.a.) Named
2 Plaintiff and Class Counsel represent, covenant, and warrant that they have not
3 directly or indirectly assigned, transferred, encumbered, or purported to assign,
4 transfer, or encumber to any person or entity any portion of any liability, claim,
5 demand, action, cause of action, or rights herein released and discharged, except as
6 set forth herein. (Settlement, ¶ 48.b.) The Parties agree that this is a settlement of
7 disputed claims not involving undisputed wages and that Labor Code Section 206.5
8 is therefore inapplicable. (Settlement, ¶ 48.c.)

- 9 c. "Settled Claims" means all claims, charges, complaints, liens, demands, causes of
10 action, obligations, damages and liabilities, arising during the Class Period that
11 each Class Member had, now has, or may hereafter claim to have against the
12 Released Parties and that were asserted in the Complaint, or that could have been
13 asserted in the Complaint based on any of the facts alleged in the Complaint,
14 regardless of whether such claims arise under federal, state and/or local law,
15 statute, ordinance, regulation, common law, or other source of law. The Settled
16 Claims specifically include, but are not limited to, the following claims, but only
17 to the extent these claims reasonably arise out of the facts alleged in the
18 Complaint: (1) Violation of California Labor Code §§ 1194, 1194.2, 1197, and
19 1197.1 (failure to pay minimum and straight time wages); (2) Violation of
20 California Labor Code §§ 510 and 1198 (failure to pay overtime wages); (3)
21 Violation of California Labor Code §§ 226.7 and 512(a) (failure to provide
22 compliant meal periods and associated premiums); (4) Violation of California
23 Labor Code § 226.7 (failure to provide compliant rest periods and associated
24 premiums); (5) Violation of California Labor Code §§ 2800 and 2802 (failure to
25 indemnify business expenses); (6) Violation of California Labor Code §§ 201,
26 202 and 203 (failure to timely pay final wages); (7) Violation of California Labor
27 Code § 204 (failure to timely pay wages during employment); (8) Violation of
28 California Labor Code § 226(a) (failure to provide compliant wage statements);

(9) Violation of California Labor Code § 1174(d) (failure to keep requisite payroll records); (10) Violation of California Business and Professions Code §§ 17200, et seq.; and (11) incorporated or related claims asserted through the Private Attorneys General Act (“PAGA”) for any of the above alleged California Labor Code violations. (Settlement, ¶ 38)

12. Release of Settled PAGA Claims. As of the Effective Date and after payment of all funds due under the terms of this Settlement, Named Plaintiff, individually, and on behalf of the State of California and all PAGA Members, hereby does and shall be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged any and all of the Released Parties of and from any and all Settled PAGA Claims during the PAGA Period. The Parties agree that it is their intent that the terms set forth in this Agreement will release any further attempt, by lawsuit, administrative claim or action, arbitration, demand, or other action of any kind, by each and every PAGA Member to obtain any recovery based on the Settled PAGA Claims. All PAGA Members shall release claims arising under PAGA regardless of their decision to participate in the Settlement. (Settlement, ¶ 49)

a. “Settled PAGA Claims” means any claim for civil penalties under PAGA that could reasonably arise from any of the California Labor Code violations and/or violations of Wage Orders alleged within the Complaint or in the Notice to the LWDA, including, but not limited to, California Labor Code §§ 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802. (Settlement, ¶ 39)

13. The Parties shall bear their own respective attorneys’ fees and costs, except as otherwise provided for in the Settlement and approved by the Court.

14. The Court finds that the Maximum Settlement Amount (“MSA”), the Net Distribution Fund, and the methodology used to calculate Settlement Payments and PAGA Payments to Settlement Class Members and PAGA Members, respectively, are fair and reasonable. Thus, Court authorizes the Settlement Administrator to calculate and pay individual settlement shares in accordance with the terms of the Settlement.

1 15. Defendant is ordered to fully fund the MSA (\$430,000.00) and also the amounts
2 necessary for Defendant's share of employer payroll taxes owed on the Wage Portions of the
3 Settlement Payments, by transmitting the funds to the Settlement Administrator within 14 days of
4 the Effective Date, as that term is defined under the Settlement.

5 16. Within fourteen (14) calendar days after Defendant funds the MSA, the Settlement
6 Administrator shall disburse, in the amounts approved by the Court as provided below, the following
7 payments: (1) Attorneys' Fees; (2) Attorneys' Costs; (3) the Service Payment; (4) Settlement
8 Administration Costs; (5) the LWDA's portion of the PAGA Allocation; and (6) the 25% share of
9 the PAGA Allocation payable to PAGA Members in PAGA Payments. The remainder shall be
10 distributed to Settlement Class Members in Settlement Payments.

11 17. A total amount of \$40,000.00 shall be allocated as the "PAGA Allocation," payable
12 from the MSA, for resolution of the Settled PAGA Claims and distributed as follows: 75%
13 (\$30,000.00) to the California Labor and Workforce Development Agency (the "LWDA") and 25%
14 (\$10,000.00) to PAGA Members. The LWDA and PAGA Members' claims for the Settled PAGA
15 Claims are hereby extinguished.

16 18. The Court confirms the appointment of Plaintiff as the Class Representative, for
17 settlement purposes only. In addition to any recovery that Plaintiff is eligible to receive as a
18 Settlement Class Member and PAGA Member, the Court approves and orders a service payment to
19 Plaintiff in the amount of \$7,500.00 (the "Service Payment"), payable from the MSA, for her role
20 and service as the Class Representative, for the risks and work attendant to that role, and for her
21 general release of claims and waiver of section 1542 rights.

22 19. The Court confirms the appointment of Moon Law Group, PC, as Class Counsel, for
23 settlement purposes only, as they are experienced in wage and hour class action litigation, have no
24 apparent conflicts of interest with Plaintiff, other Class Members, or the Settlement Administrator,
25 and have adequately represented Class interests. The Court approves and orders the payments to
26 Class Counsel, payable from the MSA, of \$143,333.33 for reasonable attorneys' fees ("Attorneys'
27 Fees"), and of \$16,489.51, for reimbursement of out-of-pocket costs ("Attorneys' Costs"). The Court
28 finds that these amounts are reasonable considering the benefits provided to the Class.

1 20. The Court confirms the appointment of Simpluris, Inc. as the Settlement
2 Administrator, who has fulfilled its initial notice and reporting duties. The Court approves and orders
3 the payment to the Administrator of \$10,000.00 ("Settlement Administration Costs"), payable from
4 the MSA, for settlement administration.

5 21. Pursuant to California Code of Civil Procedure section 384, following the expiration
6 of the 180-day check-cashing deadline, should there be any uncashed checks, the Settlement
7 Administrator shall transmit those amounts to the California State Controller's Office for Unclaimed
8 Property in the name of each Settlement Class Member and/or PAGA Member who failed to cash
9 their settlement check prior to the void date.

10 22. In accordance with California Rule of Court 3.771(b), notice of the concurrently
11 filed Judgment will be given to the Settlement Class by the Settlement Administrator, who will
12 post an electronic copy on its website for no less than ninety (90) calendar days following entry
13 thereof.

14 23. This Final Approval Order and the concurrently filed Judgment are intended to be a
15 final disposition of the Action in its entirety and are intended to be immediately appealable.

16 24. The obligations set forth in the Settlement are deemed part of this Final Approval
17 Order and the concurrently filed Judgment, and the Parties and Settlement Administrator are ordered
18 to carry out the Settlement according to its terms and provisions.

19 25. Following entry of the concurrently filed Judgment, and without affecting the finality
20 thereof, pursuant to California Code of Civil Procedure section 664.6, the Court shall retain
21 continuing jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i)
22 enforcing this Settlement and/or Judgment, (ii) addressing settlement administration matters, and (iii)
23 addressing such post-Judgment matters as are permitted by law.

24 26. The Settlement is finally approved but is not an admission by Defendant of the
25 validity of any claims in this Action, or of any wrongdoing by Defendant or of any violation of
26 law. Neither the Settlement nor any related document shall be offered or received in evidence in
27 any civil, criminal, or administrative action or proceeding other than such proceedings as may be
28 necessary to consummate or enforce the Settlement.

1 27. The Court sets a (Non-Appearence) Compliance Hearing re: Distribution on
2 Sept. 13, 2024 at 8:45 (a.m.) p.m. in Department 10D. Class Counsel are ordered to file
3 a final report and declaration by the Administrator regarding settlement distribution no later than
4 five (5) court days prior to the Compliance Hearing. No appearance will be required at the
5 Compliance Hearing if the Settlement Administrator's declaration reports that all the distributions
6 under the Agreement are complete.

7 **IT IS SO ORDERED.**

8 DATE: MAY 07 2024


THE HON. BARBARA KRONLUND
Judge of the Superior Court, San Joaquin County