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SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

DAVID CANCINO, an individual, on his own
behalf and on behalf of all others similarly
situated,

Plaintiffs,

vs.

METRO EIGHTEEN, INC, a California
corporation; and DOES 1 through 100,
inclusive,

Defendants.

CASE NO.: **22STCV37408**

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

Complaint Filed: November 29, 2022

1 On December 18, 2023, the unopposed Motion for Preliminary Approval of Class Action
2 Settlement, filed by Plaintiff David Cancino (“Plaintiff”) came on regularly in Department 17 of
3 the above-captioned court, Hon. Maren Nelson, presiding.

4 Having fully reviewed Plaintiff’s Motion for Preliminary Approval of Class Action
5 Settlement and the supporting Memorandum of Points and Authorities, the Declaration of Kevin
6 Lipeles, the Declaration of David Cancino, the Class Action and PAGA Settlement Agreement and
7 Class Notice (“Settlement Agreement”), the Class Notice (which is attached as Exhibit A to the
8 Settlement Agreement), THE COURT HEREBY MAKES THE FOLLOWING FINDINGS AND
9 ORDERS:

10 Plaintiff and his counsel filed this class action lawsuit alleging that Defendant Metro
11 Eighteen, Inc., (“Metro Eighteen” or “Defendant”) failed to pay its non-exempt employees’
12 minimum wages (including overtime), afford them meal/rest breaks, reimburse business expenses
13 and pay accrued and unused vacation pay¹. These Labor Code violations also resulted in Metro
14 Eighteen issuing inaccurate wage statements to class members and failing to pay all wages due
15 upon termination of employment to class members who are former employees. Plaintiff alleged on
16 a class basis that the foregoing violated California’s Unfair Competition Law, Business and
17 Professions Code §§17200, *et seq.* Further, Plaintiff alleged that Defendant was liable for PAGA
18 remedies pursuant to California Labor Code §2699.

19 On November 29, 2022, Plaintiff filed his Original Class Action Complaint in the Superior
20 Court of California, Los Angeles County, on behalf of himself and others similarly situated for
21 certain present and former employees of Defendant Success Valley Farms, LLC. for: (1) failure to
22 pay minimum wages due to rounding, including overtime (Cal. Labor Code §§1194, 1194.2, 1997,
23 1997.1, 1198; IWC Wage Order No. 4); (2) failure to provide timely off-duty meal periods (Cal.
24 Lab. Code §§ 226.7, 512; IWC Wage Order No. 4); (3) failure to provide rest periods (Cal. Lab.
25 Code §§ 226.7; IWC Wage Order No. 4); (4) failure to maintain records and provide accurate
26 itemized wage statements (Cal. Lab. Code § 226); (5) failure to pay wages due upon termination

27 ¹ Plaintiff no longer seeks damages under his claim for failure to pay unused vacation pay as he ascertained during
28 mediation that there was no value to that claim.

1 (Cal. Lab. Code §§ 201–203); (6) failure to reimburse business expenses (Cal. Lab. Code § 2802);
2 (7) failure to pay accrued and unused vacation pay (Cal. Lab. Code §§ 201, 227.3); and (8) unfair
3 competition (Cal. Bus. & Prof. Code §§ 17200 et seq.).

4 On May 8, 2023, Plaintiff filed his First Amended Class Action Complaint in the Los
5 Angeles Superior Court, adding a claim pursuant to the Private Attorney General Act of 2004, Cal.
6 Lab. Code §§2699, *et seq.*

7 After conducting formal and informal discovery and negotiating at arm’s-length, Plaintiff
8 and Defendant have arrived at what the Court finds to be a fair and equitable settlement of all
9 claims encompassed by Plaintiff’s Complaint.

10 The Court finds on a preliminary basis that the Settlement Agreement, which is attached as
11 an Exhibit A to the Declaration of Kevin Lipeles and is hereby incorporated in full by reference as
12 part of this Order Granting Preliminary Approval, appears to be within the range of reasonableness
13 of a settlement which could ultimately be given final approval by the Court. The Court notes that
14 Defendant has agreed to pay Four Hundred Ninety Five Thousand Dollars and No Cents
15 (\$495,000.00) (“Gross Settlement Amount”) to the putative class as settlement in full of past
16 claims, with no reversion to Defendant of any settlement monies remaining after all Class Members
17 are paid, as more specifically described in the Settlement Agreement. Any settlement checks which
18 remain uncashed upon the expiration of 180 days of issuance will be cancelled and funds
19 associated with such cancelled checks, will be remitted to the California State Controller’s Office,
20 Unclaimed Property Division in the name of the Participating Class Member/Aggrieved Employee
21 who failed to cash their check. The Court also notes that out of the Gross Settlement Amount,
22 Defendant has agreed to pay up to One Hundred Seventy Three Thousand Two Hundred Fifty
23 Dollars and No Cents (\$173,250.00) as attorneys’ fees (“Attorneys’ Fees”), costs up to Five
24 Thousand Nine Hundred Eighty Two Dollars and One Cent (\$5,982.01) (“Costs”), up to Seven
25 Thousand Five Hundred Dollars and No Cents (\$7,500.00) as an incentive award to the Named
26 Plaintiff (“Class Representative Service Payment”), and approximately Five Thousand Nine

1 Hundred Ninety-Five Dollars and No Cents (\$5,995.00) to Phoenix Class Action Administration
2 Solutions (“Phoenix”) to administer the settlement (“Administrator’s Fee”).

3 It appears to the Court on a preliminary basis that the Settlement Agreement is fair and
4 reasonable when balanced against the probable outcome of further litigation relating to class
5 certification, liability and damages issues and potential appeal. It further appears that significant
6 investigation, research, and informal discovery have been conducted such that counsel for the
7 parties at this time are able to reasonably evaluate their respective positions. It further appears that
8 settlement at this time will avoid substantial costs, delay and risks that would be presented by the
9 further prosecution of the litigation. It further appears that the Settlement Agreement has been
10 reached as the result of intensive, serious and non-collusive negotiations between the parties.

11 ACCORDINGLY, GOOD CAUSE APPEARING, THE MOTION FOR PRELIMINARY
12 APPROVAL OF CLASS ACTION SETTLEMENT IS HEREBY GRANTED.

13 The Court hereby orders that the putative class of “all current and former employees who
14 were hourly paid, nonexempt employees of Defendant and who worked for Defendant in California
15 between November 29, 2018, through the Effective Date” shall be conditionally certified for
16 settlement purposes only. The Court finds that the proposed Class Notice fairly and adequately
17 advises Class Members of: the conditional certification for settlement purposes only; the
18 preliminary Court approval of the proposed Settlement Agreement; the date of the Final Fairness
19 and Approval Hearing; the terms of the proposed settlement and the benefits available to Class
20 Members; and the Class Members' rights to opt out or object to their share of the Settlement
21 Amount, and the timing and procedures for doing so. The Court further finds the Class Notice
22 clearly comports with all constitutional requirements, including those of due process.

23 ACCORDINGLY, GOOD CAUSE APPEARING, THE COURT HEREBY APPROVES
24 THE PROPOSED NOTICE TO THE CLASS MEMBERS.

25 For purposes of the Settlement Agreement only, this litigation is hereby CERTIFIED as a
26 class action pursuant to California Code of Civil Procedure Section 382.

The Court hereby APPOINTS Kevin Lipeles, Esq., Thomas Schelly, Esq. and Jasmine Badawi, Esq. as Class Counsel. The Named Plaintiff David Cancino is approved as class representative for the settlement class.

The mailing to the last known addresses of Settlement Class Members as specifically described within the Settlement Agreement constitutes an effective method of notifying Settlement Class Members of their rights with respect to the proposed settlement.

ACCORDINGLY, THE COURT HEREBY ORDERS the following settlement approval schedule:

Within thirty (30) calendar days of the Preliminary Approval Order	Deadline for Defendant to provide Class Data containing the names, last-known addresses, etc., of Settlement Class Members to the Settlement Administrator. Stip. at § 4.2.
Within fourteen (14) calendar days after receiving the Class Data from Defendant	Settlement Administrator shall mail Class Notice to Class Members. Stip. at § 8.4.2.
Not later than sixty (60) calendar days after the Settlement Administrator mails Class Notice to Class Members (plus an additional fourteen (14) days for Class Members whose Class Notice is re-mailed)	Deadline for Settlement Class Members' request for exclusion/opt-out from the settlement to be sent to the Settlement Administrator. Stip. at § 8.5.1.
Not later than sixty (60) calendar days after the Settlement Administrator mails Class Notice to Class Members (plus an additional fourteen (14) days for Class Members whose Class Notice is re-mailed)	Deadline for Settlement Class Members to object to the Settlement. Stip. at § 8.7.2.
Within sixty (60) calendar days after the Administrator mails the Class Notice, or as extended in the case of a re-mailed Class Notice, an additional fourteen (14) calendar days	Settlement Class Members must submit any challenges regarding their Workweeks information used to calculate the Individual Class Payment or Individual PAGA Payment. Stip. at § 8.6.
Response Deadline	The date sixty (60) calendar days after the Administrator mails Notice to Class Members and Aggrieved Employees, and shall be the last date on which Class Members may: (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail his or her Objection to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to

	the Administrator shall have an additional fourteen (14) calendar days beyond the Response Deadline has expired. Stip. at § 1.43.
Effective Date	The date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur. Stip. at § 1.18.
No later than three (3) business days after receipt of the Class Data	The Settlement Administrator will notify Class Counsel that the list has been received and state the number of Class Members, PAGA Members, Workweeks, and Pay Periods in the Class Data. Stip. at § 8.4.1.
Within thirty (30) calendar days after the Court enters the Preliminary Approval Order	Defendant shall transmit the first half (\$247,500.00) of the Gross Settlement Amount to the Administrator. Stip. at § 4.3.1.
Within two hundred ten (210) calendar days after the Court enters the Preliminary Approval Order	Defendant shall transmit the second half (\$247,500.00) of the Gross Settlement Amount to the Administrator. Stip. at § 4.3.2.
Within thirty (30) calendar days after the Effective Date	Claims Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment. Stip. at § 4.4.
Within seven (7) calendar days of receiving a returned check	The Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Class Member Address Search. Stip. at § 4.4.2.

1 2	Within ten (10) calendar days after the Administrator disbursed all funds in the Gross Settlement Amount	The Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made to Class Members. Stip. at § 8.8.6.
3 4 5	Not later than three (3) business days of the Administrator's receiving notice that any Class Notice returned by USPS as undelivered	Settlement Administrator will re-mail the Class Notice using any forwarding address provided by the USPS or conduct a Class Member Address Search and re-mail the Class Notice. Stip. at § 8.4.3.
6 7 8	No later than fourteen (14) calendar days before the date by which Plaintiff is required to file the Motion for Final Approval	Settlement Administrator shall provide to Class Counsel and Defendant's counsel, a declaration for filing in support of Plaintiff's Motion for Final Approval. Stip. at § 8.8.5.
9 10 11 12 13 14 15	Not later than five (5) calendar days after the expiration of the deadline for submitting Requests for Exclusion	Settlement Administrator will email a list to Class Counsel and Defense Counsel containing (a) the names and other identifying information of Class Members who have timely submitted valid Requests for Exclusion ("Exclusion List"); (b) the names and other identifying information of Class Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid). Stip. at § 8.8.2.
16 17 18	Within seven (7) calendar days after the Administrator sends the final Exclusion List to Defense Counsel	Defendant must notify Class Counsel and the Court of its election to withdraw from the Settlement. Stip. at § 10.

19 IT IS FURTHER ORDERED that the Final Fairness and Approval Hearing shall be held at
20 _____ on _____, 2024, in Department 17 of the Superior Court for the State of
21 California, County of Los Angeles, located at 312 North Spring Street, Los Angeles, CA 90012, to
22 consider the good faith, fairness, adequacy and reasonableness of the proposed Settlement
23 Agreement preliminarily approved by this Order Granting Preliminary Approval, and to consider
24 Plaintiff's application for Attorneys' Fees, Costs and Class Representative Service Payment.

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1 Any party to this case, including Class Members, in person or by counsel, may be heard, to
2 the extent allowed by the Court, in support of or in opposition to the Court's determination of the
3 good faith, fairness, reasonableness and adequacy of the proposed Settlement Agreement, including
4 the Attorneys' Fees, Costs and Class Representative Service Payment.

5 The Court expressly reserves the right to adjourn or continue the Final Fairness and
6 Approval Hearing from time to time without further notice to Class Members.

7 IT IS FURTHER ORDERED that, pending final determination of whether the proposed
8 Settlement Agreement should be granted final approval, the Plaintiff and all members of the
9 putative class, either directly or representatively, or in any other capacity, shall not commence or
10 prosecute any action or proceeding asserting any of the Released Claims against any of the
11 Released Parties, as defined in the Settlement Agreement.

12 IT IS FURTHER ORDERED that if for any reason the Court does not execute and file an
13 Order of Final Approval, or if the Final Order and Dismissal does not occur for any reason
14 whatsoever, the Settlement Agreement and the proposed settlement that is the subject of this Order,
15 and all evidence and proceedings had in connection therewith, shall be without prejudice to the
16 status quo ante rights of the parties to the litigation, as more specifically set forth in the Settlement
17 Agreement.

18 IT IS FURTHER ORDERED that the Settlement Agreement shall not be construed as an
19 admission or evidence of either liability or the appropriateness of class certification in the non-
20 settlement context, as more specifically set forth in the Settlement Agreement.

21 IT IS FURTHER ORDERED that, pending further order of this Court, all proceedings in
22 this matter except those contemplated herein and in the Settlement Agreement are stayed.

23 IT IS SO ORDERED.

24
25 Dated: _____

Hon. Maren Nelson,
Judge of the Superior Court