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Filed AUG 23, 2024
STEPHANIE BOHRER, CLERK
By [Signature]
DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN JOAQUIN

JESSICA LEE, an individual, on behalf of herself, and on behalf of all persons similarly situated,

Plaintiffs,

v.

CALCHEF FOODS, LLC., a California limited liability company; NOBLE RIDER, LLC, a California limited liability company; SHERPA HOLDINGS, LLC, a California limited liability company; NOBLE EQUESTRIAN PRODUCES, LLC, a California limited liability company; FIRST TACTICAL, LLC, a California limited liability company; INNOV8 HOLDINGS, LLC, a California limited liability company; and DOES 1-50, Inclusive,

Defendants.

Case No: STK-CV-UOE-2023-0005894

~~PROPOSED~~ ORDER GRANTING PRELIMINARY APPROVAL OF CLASS, COLLECTIVE AND PAGA REPRESENTATIVE ACTION SETTLEMENT

Date: 8/23/2024
Time: a.m. 9:00 AM

Hon.: Judge Blanca A. Bañuelos
Dept: 10B
Action Filed: June 8, 2023
Trial Date: None Set

This matter, having come before the Honorable Judge Blanca A. Bañuelos of the Superior Court of the State of California, in and for the County San Joaquin, on Aug 23, 2024, for the motion by Plaintiff Jessica Lee ("Plaintiff") for preliminary approval of the class, collective and PAGA settlement with Defendant CalChef Foods, LLC ("Defendant"). The Court, having considered the briefs, argument of counsel and all matters presented to the Court and good cause

FILED

1 appearing, hereby GRANTS Plaintiff's Motion for Preliminary Approval of Class, Collective and
2 PAGA Representative Action Settlement.

3 **IT IS HEREBY ORDERED:**

4 1. The Court preliminarily approves the Class, Collective and PAGA Representative
5 Action Settlement Agreement and Class Notice ("Agreement") attached as Exhibit 1 to the
6 Declaration of Nicole Barvié in Support of Plaintiff's Motion for Preliminary Approval of Class,
7 Collective and PAGA Representative Action Settlement. This is based on the Court's determination
8 that the Settlement set forth in the Agreement is within the range of possible final approval, pursuant
9 to the provisions of Section 382 of the California Code of Civil Procedure and California Rules of
10 Court, Rule 3.769.

11 2. This Order incorporates by reference the definitions in the Agreement, and all terms
12 defined therein shall have the same meaning in this Order as set forth in the Agreement.

13 3. The Gross Settlement Amount is Seven Hundred Thirty-Five Thousand Dollars and
14 No Cents (\$735,000.00). It appears to the Court on a preliminary basis that the settlement amount
15 and terms are fair, adequate, and reasonable as to all potential Class Members when balanced
16 against the probable outcome of further litigation and the significant risks relating to certification,
17 liability, and damages issues. It further appears that investigation and research have been conducted
18 such that counsel for the Parties are able to reasonably evaluate their respective positions. It further
19 appears to the Court that settlement at this time will avoid substantial additional costs by all Parties,
20 as well as avoid the delay and risks that would be presented by the further prosecution of the Action.
21 It further appears that the Settlement has been reached as the result of serious and non-collusive,
22 arms-length negotiations. The Court therefore preliminarily finds that the Settlement is fair,
23 adequate, and reasonable when balanced against the probable outcome of further litigation and the
24 significant risks relating to certification, liability, and damages issues.

25 4. The Agreement specifies for an attorney's fees award not to exceed one-third (1/3)
26 of the Gross Settlement Amount, an award of litigation expenses incurred, not to exceed \$30,000,
27 and proposed Class Representative Service Payment to the Plaintiff in an amount not to exceed
28 \$10,000.00. The Court will not approve the amount of attorney's fees and costs, nor the amount of

1 any service award, until the Final Approval Hearing. Plaintiff will be required to present evidence
2 supporting these requests, including lodestar, at the time of final approval.

3 5. The Court recognizes that Plaintiff and Defendant agree to certification of a class for
4 settlement purposes only. This agreement will not be deemed admissible in this or any other
5 proceeding should this Settlement not become final. For settlement purposes only, the Court
6 conditionally certifies the following Class: "means an individual who is or was employed by
7 Defendant in California as a non-exempt employee at any time during the Class Period." The Class
8 Period is June 8, 2019 through July 16, 2024.

9 6. The Court concludes that, for settlement purposes only, the Class meets the
10 requirements for certification under section 382 of the California Code of Civil Procedure in that:
11 (a) the Class is ascertainable and so numerous that joinder of all members of the Class is
12 impracticable; (b) common questions of law and fact predominate, and there is a well-defined
13 community of interest amongst the members of the Class with respect to the subject matter of the
14 litigation; (c) the claims of the Plaintiff are typical of the claims of the members of the Class; (d) the
15 Plaintiff can fairly and adequately protect the interests of the members of the Class; (e) a class action
16 is superior to other available methods for the efficient resolution of this controversy; and (f) counsel
17 for the Class is qualified to act as counsel for the Class and the Plaintiff is an adequate representative
18 of the Class.

19 7. The Court provisionally appoints Plaintiff as the representative of the Class. The
20 Court provisionally appoints Nicole Barvié of Barvié Law, APC, Shani O. Zakay of Zakay Law
21 Group, APLC and Jean-Claude Lapuyade of JCL Law Firm, APC as Class Counsel for the Class.

22 8. The Court hereby approves, as to form and content, the Notice of Proposed
23 Settlement of Class Action and Hearing Date for Final Court Approval ("Class Notice") attached
24 to the Agreement as Exhibit A. The Court finds that the Class Notice appears to fully and accurately
25 inform the Class of all material elements of the proposed Settlement, of the Class Members' right
26 to be excluded from the Class by submitting a written opt-out request, and of each member's right
27 and opportunity to object to the Settlement. The Court further finds that the distribution of the Class
28 Notice substantially in the manner and form set forth in the Agreement and this Order meets the

1 requirements of due process, is the best notice practicable under the circumstances, and shall
2 constitute due and sufficient notice to all persons entitled thereto. The Court orders the mailing of
3 the Class Notice by first class mail, pursuant to the terms set forth in the Agreement.

4 9. The Court hereby appoints APEX Class Action. No later than fifteen (15) business
5 days after preliminary approval of the Settlement by the Court, Defendant shall provide to
6 the Settlement Administrator an electronic spreadsheet with the Class Data. The Settlement
7 Administrator will perform address updates and verifications as necessary prior to the mailing of
8 the Class Notice. Using best efforts to mail it as soon as possible, and in no event later than
9 fourteen (14) days after receiving the Class Data, the Settlement Administrator will mail the Class
10 Notice to all Class Members via first-class U.S. Mail. Should the Settlement Administrator require
11 additional time, for any reason, then this fourteen (14) day deadline shall be extended pursuant to
12 requests by the Settlement Administrator and stipulation filed by counsel for the Parties.

13 10. The Court hereby preliminarily approves the proposed procedure for exclusion from
14 the Settlement. Any Class Member may individually choose to opt out of and be excluded from the
15 Class as provided in the Class Notice by following the instructions for requesting exclusion from
16 the Class that are set forth in the Class Notice. All requests for exclusion must be postmarked by
17 no later than forty-five (45) calendar days after the date of the mailing of the Class Notice and
18 received by the Settlement Administrator. If the Class Notice Packet is re-mailed, the response date
19 for requests for exclusion will be extended an additional fourteen (14) days. Any such person who
20 chooses to opt out of and be excluded from the Class will not be entitled to any recovery under the
21 Settlement and will not be bound by the Settlement or have any right to object, appeal or comment
22 thereon. Class Members who have not requested exclusion shall be bound by all determinations of
23 the Court, the Agreement, and the Judgment. A request for exclusion may only opt out that
24 particular individual, and any attempt to affect an opt out of a group, class, or subclass of individuals
25 is not permitted and will be deemed invalid. Subject to the Court's final approval of the Settlement,
26 those Aggrieved Employees that worked during the PAGA Period of March 24, 2022 through
27 July 16, 2024, will still be paid their allocation of the PAGA Payment and will remain bound by the
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1 release of the Released PAGA Claims in the Agreement regardless of their request for exclusion
2 from the Class.

3 11. Any Class Member who has not opted out may appear at the final approval hearing
4 and may object or express the Member's views regarding the Settlement, and may present evidence
5 and file briefs or other papers that may be proper and relevant to the issues to be heard and
6 determined by the Court as provided in the Notice. Class Members will have forty-five (45)
7 calendar days from the date of the mailing of the Class Notices to submit their written objections to
8 the Settlement Administrator in accordance with the instructions in the Class Notice. If the Class
9 Notice Packet is re-mailed, the response date for written objections will be extended an additional
10 fourteen (14) days. Alternatively, Class Members may appear at the Final Approval Hearing to
11 make oral objections.

12 12. A Final Approval Hearing shall be held before this Court on January 14
13 2025 at 9:00am in Department 10B at the San Joaquin County Superior Court to
14 determine all necessary matters concerning the Settlement, including: whether the proposed
15 settlement of the Action on the terms and conditions provided for in the Agreement is fair, adequate,
16 and reasonable, and should be finally approved by the Court; whether the Final Approval Order and
17 Judgment should be entered herein; whether the plan of allocation contained in the Agreement
18 should be approved as fair, adequate, and reasonable to the Class Members; and to finally approve
19 attorneys' fees and costs, the service awards, and the expenses of the Settlement Administrator. All
20 papers in support of the motion for final approval and the motion for attorneys' fees, costs, and
21 service awards, both motions to be heard at the Final Approval Hearing, shall be filed with the Court
22 and served on all counsel no later than sixteen (16) court days before the hearing.

23 13. Neither the Settlement nor any exhibit, document, or instrument delivered
24 thereunder shall be construed as a concession or admission by Defendant in any way that the claims
25 asserted have any merit or that this Action was properly brought as a class or representative action,
26 and shall not be used as evidence of, or used against Defendant as, an admission or indication in
27 any way, including with respect to any claim of any liability, wrongdoing, fault, or omission by
28 Defendant, or with respect to the truth of any allegation asserted by any person. Whether or not the

1 Settlement is finally approved, neither the Settlement, nor any exhibit, document, statement,
2 proceeding, or conduct related to the Settlement, nor any reports or accounts thereof, shall in any
3 event be construed as, offered or admitted in evidence as, received as or deemed to be evidence for
4 any purpose adverse to the Defendant, including, but not limited to, evidence of a presumption,
5 concession, indication, or admission by Defendant of any liability, fault, wrongdoing, omission,
6 concession, or damage.

7 14. In the event the Settlement does not become effective in accordance with the terms
8 of the Agreement, or the Settlement is not finally approved, or is terminated, canceled, or fails to
9 become effective for any reason, this Order shall be rendered null and void and shall be vacated,
10 and the Parties shall revert to their respective positions as of before entering into the Agreement,
11 and expressly reserve their respective rights regarding the prosecution and defense of this Action,
12 including all available defenses and affirmative defenses, and arguments that any claim in the
13 Action could not be certified as a class action and/or managed as a representative action. In such
14 an event, the Court's orders regarding the Settlement, including this Order, shall not be used, or
15 referred to in litigation for any purpose. Nothing in this paragraph is intended to alter the terms of
16 the Agreement with respect to the effect of the Agreement if it is not approved.

17 15. The Court reserves the right to adjourn or continue the date of the final approval
18 hearing and all dates provided for in the Agreement without further notice to Class Members, and
19 retains jurisdiction to consider all further applications arising out of or connected with the proposed
20 Settlement.

21 16. The Action is stayed and all trial and related pre-trial dates are vacated, subject to
22 further orders of the Court at the Final Approval Hearing.

23 **IT IS SO ORDERED.**

24 Dated: 8/23/24

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26 HON. BLANCA A. BAÑUELOS
27 JUDGE, SUPERIOR COURT OF CALIFORNIA
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