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15 *Attorneys for Plaintiff Kwane Gatlin and others similarly situated*

16 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**

17 **COUNTY OF ALAMEDA**

18 **(UNLIMITED JURISDICTION - COMPLEX)**

19 KWANE GATLIN, individually and on
20 behalf of others similarly situated,

21 Plaintiff,

22 vs.

23 ANHEUSER-BUSCH, LLC, an entity;
24 ANHEUSER-BUSCH INBEV
25 WORLDWIDE, INC. an entity, the
26 HORIZON BEVERAGE COMPANY,
27 L.P., an entity, and DOES 1-50, inclusive,

28 Defendants.

CASE NO. RG19015524

Reservation No. 439465114034

CLASS ACTION

**~~[PROPOSED]~~ ORDER AND JUDGMENT
OF FINAL APPROVAL OF AMENDED
CLASS ACTION AND PAGA
SETTLEMENT, ATTORNEYS' FEES AND
COSTS, AND SERVICE AWARD**

Date: January 5, 2024

Time: 9:00 a.m.

Dept: 21

Judge: Honorable Evelio Grillo

Filed: April 18, 2019

FILED
ALAMEDA COUNTY

JAN 09 2024

CLERK OF THE SUPERIOR COURT

By 

On January 5, 2024, a hearing was held on Plaintiff Kwane Gatlin's unopposed motion for final approval of the parties' proposed class action and PAGA settlement. Virginia Villegas of The Villegas Law Firm, APC and Richard J. Vaznaugh of The Law Office of Richard J. Vaznaugh, appeared for Plaintiff, and Tim Johnson of Ogletree Deakins appeared on behalf of Defendants Anheuser-Busch, LLC, and Anheuser-Busch InBev Worldwide, Inc., (collectively referred to as "AB Defendants").

The parties have previously filed with this Court their Amended Class Action and PAGA Settlement Agreement (the "Settlement" or "Settlement Agreement"). On August 15, 2023, this Court preliminarily approved the Settlement in its Order Granting Preliminary Approval of Settlement ("Preliminary Approval Order"). In accordance with the Court's Preliminary Approval Order, the Settlement Administrator has provided notice of the terms of the Settlement to Class Members, who have had the opportunity to object to the Settlement, to exclude themselves from its provisions, or challenge their underlying employment data. There was one request for exclusion. There were no objections to the Settlement.

The Court has received and considered the proposed Settlement, the supporting papers filed by the parties, including the Declarations of Virginia Villegas, Richard J. Vaznaugh, Kwane Gatlin, and Teresa Y. Sutor in Support of the Unopposed Motion for Final Approval of Class Action and PAGA Settlement Agreement, the evidence previously received by the Court pursuant to the Unopposed Motion And Motion For Order (1) Conditionally Certifying Settlement Class; (2) Preliminarily Approving Class Action Settlement; (3) Directing Distribution Of Class Notice; and (4) Setting Hearing For Final Approval Of Settlement filed on December 12, 2023, and the final approval hearing on January 5, 2024. The Court's Tentative Ruling Issued on _____ is attached hereto as **Exhibit A**. Pursuant to California Rules of Court 3.1312, Plaintiff's counsel served a copy of the Proposed Order on Defendants' counsel on _____. Plaintiff's counsel did not receive any objections or response to the proposed Order. The matter having been submitted and good cause appearing therefore, the Court at the hearing granted final approval of the class action Settlement and the Court hereby finds and orders as follows: The Court GRANTS FINAL APPROVAL to the Settlement and HEREBY ORDERS and MAKES the following DETERMINATIONS:

1 1. Except as otherwise specified, for the purposes of this Order and Judgment, the Court
2 adopts and incorporates by reference all defined terms set forth in the Settlement and Motion for
3 Preliminary Approval.

4 2. The Court has jurisdiction over the subject matter of this litigation, Plaintiff, the Settlement
5 Class, and Defendants.

6 3. Pursuant to this Court's Preliminary Approval Order, a Notice of Class Action and PAGA
7 Settlement was sent to 819 individuals identified as Class Members by first-class mail, after first
8 processing such addresses against the National Change of Address ("NCOA") database, maintained by
9 the United States Postal Service ("USPS"), for purposes of updating and confirming the mailing
10 addresses of the Class Members. To the extent that an updated address was found in the NCOA
11 database, the updated address was utilized for the mailing of the Notice. To the extent that no updated
12 address was found in the NCOA database, the original address provided by Defendants was utilized
13 for the mailing of the Notice. The Notice informed Class Members of the terms of the Settlement, their
14 right to opt out of the Class and pursue their own remedies, their opportunity to file written objections,
15 their right to challenge the underlying employment data, and their right to appear in person or by
16 counsel at the final approval hearing and be heard regarding approval of the settlement. Adequate
17 periods of time were provided by each of these procedures. The Notice given to the Class met
18 requirements of California law and due process. The Notice to the Class was adequate.

19 4. Out of the identified Class Members, none have objected to any aspect of the proposed
20 Settlement, and one has opted out of the proposed Settlement. The reaction of the Settlement Class to
21 the proposed Settlement supports the conclusion that the proposed Settlement is fair, reasonable and
22 adequate.

23 5. For settlement purposes only, the following Settlement Class is certified:
24 all current and former employees of Defendants in the State of California who held the position(s) of
25 sales representatives, salesmen, and/or any other job title with similar duties, working at/from
26 wholesale/distribution offices owned, operated, and controlled by Defendants during the period of
27 April 18, 2015, through January 31, 2023, and who receive a salary with no overtime compensation.
28 .

6. Kwane Gatlin is confirmed as Class Representative.

7. Virginia Villegas of The Villegas Law Firm, APC and Richard J. Vaznaugh of The Law Office of Richard J. Vaznaugh, are confirmed as Class Counsel.

8. For settlement purposes only, the proposed Settlement Class meets the requirements for certification under California Code of Civil Procedure § 382. Specifically, for settlement purposes: (1) the proposed Settlement Class is numerous and ascertainable; (2) there are predominant common questions of law or fact; (3) the Class Representative's claims are typical of the claims of the members of the proposed Settlement Class; (4) the Class Representative has fairly and adequately protected the interests of the Settlement Class Members; (5) Class Counsel is qualified to serve as counsel for the Class Representative and the Settlement Class; and (6) a class action is superior to other methods to efficiently adjudicate this controversy through settlement.

9. The Court finds that no Class Member has objected to the terms of the Settlement. The Court further finds and determines that the terms of the Settlement are fair, reasonable and adequate to the Class and to each Class Member and that the Class Members who have not opted out will be bound by the Settlement, that the Settlement is ordered finally approved, and that all terms and provisions of the Settlement should be and hereby are ordered to be consummated.

10. The Court finds and determines that the payments to be made to the Settlement Class Members as provided for in the Settlement are fair and reasonable. The Court gives final approval to and orders the payment of those amounts in accordance with the terms of the Settlement.

11. The Settlement provides for an award of up to Six Hundred Sixty-Six Thousand Six Hundred and Zero Cents (\$666,600.00) to Class Counsel as attorneys' fees in this action, representing thirty-three and a third percent (33.3%) of the Maximum Gross Settlement Amount, subject to the Court's approval. The Settlement also provides for an award of up to Twenty Thousand Dollars and Zero Cents (\$20,000) for litigation costs. Class Counsel requests an award of \$20,000 as reimbursement for litigation costs, and \$666,600.00 for attorneys' fees. An award of ~~\$666,600.00~~ ^{\$ 600,000} for attorneys' fees and ~~\$20,000~~ ^{\$ 16,161.16} for litigation costs is reasonable, in light of the contingent nature of Class Counsel's fee, the hours worked by Class Counsel, and the results achieved by Class Counsel. The requested attorneys' fee award represents a thirty-three and third percent (33.3%) portion of the

Maximum Gross Settlement Amount and is substantially lower than Class Counsel's overall lodestar based on Counsel's reasonable hourly rates and is therefore reasonable. The Court ORDERS that 10% of any fee award to be kept in the administrator's trust fund until the completion of the distribution process and Court approval of a final accounting.

12. The Court finds and determines that the payment of ~~Fifteen Thousand and Zero Cents~~ ^{\$7,500} ~~(\$15,000.00)~~ to the Class Representative as Class Representative service award and for executing a Complete Release of All Claims is fair and reasonable. The Court gives final approval to and orders that the payment of that amount be paid to the Class Representative out of the Maximum Gross Settlement Amount in accordance with the terms of the Settlement, on the condition that Kwane Gatlin shall have executed the Complete Release of All Claims as set forth in the Settlement.

13. The Court approves payment to the State of California Labor and Workforce Development Agency ("LWDA") of 75% of \$25,000 in the amount of Eighteen Thousand Seven Hundred Fifty and Zero Cents (\$18,750.00) as its share of civil penalties under the Private Attorney General Act, and 25% of \$25,000 in the amount of Six Thousand Two Hundred Fifty Dollars and Zero Cents (\$6,250.00) of which will be paid to the PAGA Employees, as defined in the Settlement Agreement.

14. The Court approves the payment of Thirteen Thousand Nine Hundred Eighteen Dollars and Zero Cents (\$13,918), to the Claims Administrator for the fees and expenses of claims administration. Pursuant to the Settlement Agreement, any checks issued to Settlement Class Members shall remain valid and negotiable for one hundred and eighty (180) days from the date of their issuance. The Administrator must conduct a Class Member Address Search for all other Class Members whose checks are returned undelivered without USPS forwarding address. Within 7 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. The Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks are returned as undelivered. The Administrator will promptly send a replacement check to any Class Member whose original check was lost or misplaced, requested by the Class Member prior to the void date.

15. For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the Void Date, the sum of any uncashed/undeposited

checks shall revert to the net Settlement Amount. If the Administrator determines that there are sufficient funds to make it economically feasible to do another distribution, it will distribute the uncashed/undeposited checks to those Class Members who cashed their checks ("Second Distribution") using the same workweek calculations as used in the original settlement fund distribution. If the Administrator determines that it is not economically feasible to do a Second Distribution, or if there are any remaining funds after the Second Distribution, the Administrator will distribute those funds to La Raza Centro Legal. Given the anticipated Second Distribution and that there is unlikely to be significant funds remaining, the Parties believe distributing the remaining funds in their entirety to La Raza Centro Legal, a nonprofit providing civil legal services to the indigent, would better serve the interest of the class than the distribution apportionment contemplated under California Civil Procedure Code Section 384. The Court shall set a date when the parties shall report to the Court the total amount actually paid to Class Members and a plan for distributing any remaining funds pursuant to California Civil Procedure Code Section 384. The Parties agree that this obligation shall satisfy and fully discharge Defendants' obligations under California Code of Civil Procedure Section 384 and the doctrines of *cy pres* and *escheat*.

16. Nothing in this order will preclude any action to enforce the parties' obligations under the Settlement or under this Order. On or before February 5, 2025, Plaintiff shall file a Final Report stating the total amount actually paid to Class Members, and the amount remaining to be tendered by the Settlement Administrator to La Raza Centro Legal. Upon the Effective Date, in exchange for the promises provided under the Settlement Agreement and under this Order, all Class Members who did not opt out, are permanently barred from prosecuting against Defendants and each of their former and present directors, officers, shareholders, owners, members, employees, managing agents, attorneys, insurers, predecessors, successors, assigns, and Defendants' subsidiaries, affiliates, and or related companies, including, but not limited to, Anheuser-Busch Wholesaler Development Corp. (the "Released Parties"), all claims that were alleged, or reasonably could have been alleged, based on the Class Period factual allegations and primary rights stated in the Operative Complaint and any amendments thereto, and ascertained in the course of the Action, including, claims for (1) (1) failure to pay overtime; (2) failure to provide, authorize, permit and/or make available meal and rest periods; (3)

1 failure to provide accurate itemized wage statements and maintain accurate payroll records; (4) failure
2 to pay full wages when due and waiting time penalties; (5) civil penalties pursuant to Labor Code
3 Section 558; and (6) unfair business practices under California's Unfair Competition Law. Except as
4 set forth in Paragraph 5.3 of the Agreement, Participating Class Members do not release any other
5 claims, including claims for vested benefits, wrongful termination, violation of the FEHA,
6 unemployment insurance, disability, social security, workers' compensation, or claims based on facts
7 occurring outside the Class Period. ("Released Claims").

8 17. Upon the funding of the Gross Settlement Amount in accordance with Paragraph 4.2,
9 Plaintiff, the LWDA, and the State of California, hereby do and shall be deemed to have fully, finally,
10 and forever released, settled, compromised, relinquished and discharged any and all of the Defendants
11 and Released Parties, including Anheuser-Busch Wholesaler Development Corp., of and from any and
12 all claims for civil penalties for violation of PAGA ("PAGA Claims") that could have been sought by
13 the Labor Commissioner identified in the PAGA letter and those predicated on the facts and/or claims
14 alleged in the PAGA letter sent to the LWDA by Plaintiff that arose at any time during the PAGA
15 Period. After the Court grants final approval of the settlement, Plaintiff will provide the LWDA with a
16 copy of the Judgment, which will include a list of the PAGA Employees during the PAGA Period.
17 Plaintiff does not release any PAGA Employees' claim for wages and damages. This does not
18 preclude the release of wages and damages by the Class Members as set forth in Paragraph 5.2 of this
19 Agreement. The Administrator will issue PAGA Employees a check for their share of the PAGA
20 Payment and will not have the opportunity to opt out of, or object to, the PAGA Payment and release
21 of the PAGA Claims.

22 18. The Released Claims also include all claims Plaintiff and Settlement Class Members
23 may have against the Released Parties relating to (i) the payment and allocation of attorneys' fees
24 and costs to Class Counsel pursuant to the Agreement and (ii) the payment to Plaintiff and Class
25 Representative for any service award. The release is intended to cover any such claims that arose
26 during the Class Period.

27 19. Pursuant to the terms of the Settlement Agreement, Plaintiff fully releases Defendants and
28 the Released Parties from any and all Class Released Claims and also Plaintiff and Plaintiff's former

1 and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns,
2 agree to a general release of any and all claims, transactions, or occurrences against Released Parties—
3 which will include without limitation any and all claims which in any way relate to Plaintiff's
4 employment with Defendants, under State or Federal law, in tort, common law, statute, contract, or
5 equity, whether pled in the Operative Complaint or not, including but not limited to any claims under
6 the Fair Labor Standards Act ("FLSA"), Title VII, Americans with Disabilities Act ("ADA"), Fair
7 Employment and Housing Act ("FEHA"), Age Discrimination in Employment Act ("ADEA"), PAGA,
8 Labor Code, or any Industrial Welfare Commission Wage Order—now existing or arising in the
9 future, based on any act, omission, event, occurrence, or nonoccurrence from the beginning of time to
10 the date of execution hereof ("Plaintiff's Release"). Plaintiff's Release does not extend to any claims
11 or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits,
12 disability benefits, social security benefits, and workers' compensation benefits that arose at any time,
13 or based on occurrences outside the Class Period. Plaintiff acknowledges that he may discover facts or
14 law different from, or in addition to, the facts or law that he now knows or believes to be true but
15 agrees, nonetheless, that Plaintiff's Release will be and remain effective in all respects,
16 notwithstanding such different or additional facts or his discovery of them. Per the Settlement
17 Agreement and after having read Section 1542 of the California Civil Code, Plaintiff shall be deemed
18 to have, and by operation of the Final Order and Judgment shall have, expressly waived and
19 relinquished to the fullest extent permitted by law the provisions, rights, and benefits of Section 1542
20 of the California Civil Code, or any other similar provision under federal or state law that purports to
21 limit the scope of a general release.

22 20. Pursuant to Rule of Court 3.769(h), the Court retains exclusive and continuing jurisdiction
23 over the litigation, Plaintiff the Class Members and Defendants for purposes of supervising the
24 interpretation, administration, implementation, construction, effectuation and enforcement of this
25 Order and the Settlement.

26 21. Notice of final judgment must be provided to the Settlement Class by posting this Order
27 and the final judgment on the settlement website for a period of not less than 60 days from the date
28 judgment is entered.

The parties are hereby ordered to comply with the terms of the Settlement.

IT IS SO ORDERED.

Dated: 1/9/24



Hon. Evelio Grillo
Judge of the Superior Court

Not Wise

Judge of the Superior Court