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13 Nicole Torres and the Proposed Class

14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
15 **FOR THE COUNTY OF SAN FRANCISCO**

16 NICOLE TORRES, individually, and on
17 behalf of other members of the general
18 public similarly situated and on behalf of
19 other aggrieved employees pursuant to the
California Private Attorneys General Act;

20 Plaintiff,

21 v.

22 RAINBOW GROCERY COOPERATIVE,
INC., a California corporation; and DOES 1
23 through 100, inclusive,

24 Defendants.

Case No.: CGC-24-612573

**SUPPLEMENTAL BRIEFING
REGARDING HEARING ON MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION AND PAGA
SETTLEMENT**

Hearing Information:

Date: December 16, 2025
Time: 1:30 PM
Dept.: 304
Judge: Hon. Ethan P. Schulman

*[Filed concurrently with: (1) Supplemental
Declaration of Devin Rauchwerger; (2)
Supplemental Declaration of Sarah Lucas; (3)
Supplemental Declaration of Plaintiff Nicole
Torres; (4) Supplemental Declaration of Jodey
Lawrence; and (6) Amended [Proposed] Order]*

1 **I. Introduction**

2 Pursuant to the Court’s Order continuing the hearing on Plaintiff Nicole Torres’
3 (“Plaintiff”) Motion for Preliminary Approval, Plaintiff respectfully submits this Supplemental
4 Brief and accompanying declarations addressing the issues raised by the Court in its November
5 3, 2025 Order Continuing Plaintiff’s Motion for Preliminary Approval of Class Action and PAGA
6 Settlement.

7 Plaintiff submits with this Supplemental Briefing the Supplemental Declaration of Devin
8 Rauchwerger (“Rauchwerger Supp. Decl.”), which includes as Exhibit A the Amended Class
9 Action and PAGA Settlement Agreement along with the updated Court Approved Notice of Class
10 Action Settlement and Hearing Date for Final Court Approval. (Rauchwerger Supp. Decl. ¶ 2,
11 **Exhibit A.**) Attached to the Rauchwerger Supp. Decl. as Exhibit B is the redline version of the
12 Amended Class Action and PAGA Settlement Agreement along with the redline version of the
13 Court Approved Notice, showing the Court the specific changes that the Parties made from the
14 original Settlement Agreement and Notice pursuant to the Courts’ request. (Rauchwerger Supp.
15 Decl. ¶ 3, **Exhibit B.**)

16 **II. Limited Class**

17 In its Order, the Court requested background regarding the pick-up-stick campaign
18 mentioned in Plaintiff’s moving papers. In September 2024, Defendant provided individual
19 Release Agreements (“Pick-Up-Stix Releases”) to all current and former non-exempt employees
20 of Defendant that had been employed during the Class Period. (Supplemental Declaration of
21 Sarah Lucas (“Lucas Supp. Decl.”) ¶ 2.) The Release Agreements provided that the employee/
22 former employee released Defendant from liability for any claims they may have for Labor Code
23 and Business & Professions Code violations alleged in Plaintiff’s putative class and PAGA action
24 and that, in exchange, each employee/ former employee would receive a payment of \$200.00.
25 (*Id.*) Together with the Release Agreement, Defendant provided each current and former
26 employee with a copy of Plaintiff’s Complaint and a detailed memo describing the nature of the
27 lawsuit and the claims alleged. (*Id.*) The memo explained that Defendant disputed Plaintiff’s
28 claims, provided Plaintiff’s counsel’s contact information, clearly stated that by signing the

1 Release Agreement, employees/former employees would waive their right to participate and
2 recover in this lawsuit, and advised each employee/former employee that it was strictly their
3 decision whether to sign the Release Agreement. (*Id.*) The memo to current employees also
4 confirmed that no adverse action would be taken against employees who decide not to sign the
5 Release Agreement. (*Id.*) Defendant provided the memos and Release Agreements in English and
6 Spanish so that current and former employees could review the documents in the language with
7 which they felt most comfortable. (*Id.*) When distributing these documents to current employees,
8 Defendant verbally reiterated that signing the Release Agreement was voluntary and that
9 Defendant would not retaliate in any way against workers who chose not to sign a Release
10 Agreement. (*Id.*) Each employee/former employee who returned a signed Release Agreement to
11 Defendant promptly received payment in the amount of \$200.00 pursuant to the Release
12 Agreement. (*Id.*) The individual Release Agreements were nearly all signed prior to October 1,
13 2024. (*Id.*) For this reason, the employees/former employees who signed a Release Agreement
14 are paid only for workweeks worked after October 1, 2024 (e.g. the Limited Class Members).
15 (*Id.*) Attached to the Lucas Supplemental Declaration as Exhibit 1 is a true and correct copy of
16 the Memorandum sent to both current and former employees informing them of the lawsuit as
17 part of the pick-up-stix campaign. (*Id.* at ¶ 3.) Attached to the Lucas Supplemental Declaration as
18 Exhibit 2 is a true and correct copy of the Release that was included for current employees as part
19 of the pick-up-stix campaign. (*Id.* at ¶ 4.) Attached to the Lucas Supplemental Declaration as
20 Exhibit 3 is a true and correct copy of the Release that was included for former employees as part
21 of the pick-up-stix campaign. (*Id.* at ¶ 5.) All of these documents were also sent to all participants
22 in Spanish as well. (*Id.* at ¶ 2.)

23 In its Order, the Court requested that Plaintiff provide the total number of putative class
24 members that executed pick-up-stix settlement agreements or the size of the Limited Class. There
25 were a total of 200 individuals who signed pick-up-stix agreements. (*Id.* at ¶ 6.) There are a total
26 of 156 Limited Class Members, because 44 of those individuals who signed pick-up-stix
27 agreements did not work during the Limited Class Period as defined by the Parties. (*Id.*)

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1 **III. Settlement Class Certification**

2 The Court’s Order asked the Parties to supplement Plaintiff’s declaration setting forth
3 specific facts to support a finding of typicality. Plaintiff has included a supplemental declaration
4 supporting a finding of typicality. More specifically, Plaintiff asserts that she had a similar
5 experience with Defendant compared to the other Class Members because they were all subjected
6 to the same policies and practices as it related to the various issues in the case. (Supplemental
7 Declaration of Nicole Torres (“Supp. Torres Decl.”) ¶ 2.) For example, in the lawsuit, Plaintiff
8 alleges that she did not receive payment for all minimum and overtime wages as a result of
9 working off-the-clock due to Defendant’s rounding policy, that she did not receive compliant
10 meal and rest breaks or receive one hour of compensation as a premium as a result of a non-
11 compliant meal or rest breaks, that she did not receive compliant wage statements since the wage
12 statements did not list out all hours that she worked and did not provide for payment of all
13 penalties that were owed due to missed meal and rest breaks, and that she did not receive all
14 compensation owed to her upon my separation from Defendants given the outstanding wages and
15 penalties owed to her. (*Id.*) Based on her experience and conversations with other employees,
16 Plaintiff believes that the other putative class members also experienced these same types of
17 violations, particularly since they were all subject to the same policies and procedures. (*Id.*) As a
18 result, Plaintiff believes the claims that she has against Defendant are typical of claims that other
19 class members have against Defendant, which makes this matter appropriate for class treatment.
20 (*Id.*)

21 **IV. Escalator Clause**

22 The Court’s Order asked the parties to address the escalator clause, which previously left
23 it unknown as to whether the escalator clause would be triggered, causing a potential change in
24 the end date for the Class Period. (SA §§ 1.22, 3.1, 8.) The Parties, with the assistance of the
25 Administrator, determined that the escalator clause was not triggered, and so the Parties amended
26 the Settlement Agreement to remove the escalator clause and set the end date for the Class Period
27 as March 28, 2025. (*Id.*)

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1 **V. Notice**

2 **A. Notice Process**

3 The Court raised four issues related to the Notice Process. First, the Parties have amended
4 the settlement agreement and obtained a new bid from the Administrator which requires the
5 Administrator to e-mail the Notice Packet to the Class Members to the extent Defendant is able
6 to provide an e-mail address for each individual. (SA §§ 1.8, 1.11, 1.46.) The updated bid from
7 the Administrator in the not to exceed amount of \$10,570.00 is attached to the Supplemental
8 Declaration of Jodey Lawrence (“Phoenix Supp. Decl.”) as Exhibit A. (Phoenix Supp. Decl. ¶ 2.)

9 Second, the Court pointed out that the Settlement Agreement incorrectly referenced the
10 wrong paragraph number when referring to the Class Release. (SA § 5.4.) The Amended
11 Settlement Agreement includes the correct reference of the Class Release language. (*Id.*)

12 Third, the Parties amended the Settlement Agreement to provide that Phoenix is the final
13 decisionmaker regarding any workweek or pay period dispute. (SA § 7.5.2.)

14 Fourth, the Parties amended the Settlement Agreement to provide that Phoenix will inform
15 class members who submit workweek or pay period disputes of the final decision regarding any
16 such dispute. (SA § 7.5.2.)

17 **B. Notice Substance**

18 Pursuant to the Court’s request, the Parties have included in Section 1 of the Notice that
19 the action also accuses Defendant of failing to keep requisite payroll records. Section 3 of the
20 Notice was amended to include Defendant’s estimated employer-side payroll taxes of \$4,023.16
21 as one of the deductions from the Gross Settlement Amount. Section 3 was also amended to
22 remove the language “The Proposed Settlement Will Be Void if the Court Denies Final Approval”
23 and included it as its own separate paragraph pursuant to the Court’s request. Section 8 of the
24 Notice reflects that the Final Approval Hearing will be held in Department 304 of the San
25 Francisco Superior Court, located at 400 McAllister Street, San Francisco, California 94102.
26 Finally, the Notice was amended to indicated that for remote appearances, that Class Members
27 should contact Class Counsel to make arrangements for a remote appearance and that Class
28 Counsel will contact the Court to request remote appearance information.

1 **VI. Residual Funds**

2 The Court recommended that the Parties make a second distribution to Participating Class
3 Members who cash their initial settlement checks prior to distributing residual funds to the
4 proposed *cy pres* beneficiary. The Parties have amended the Settlement agreement so that any
5 funds that are remaining after the initial void date will be redistributed to those Participating Class
6 Members who cashed their initial settlement checks. (SA § 4.4.3.) To the extent there are
7 remaining funds after the void date for the second distribution, those remaining amounts will be
8 distributed to the *cy pres* beneficiary. (*Id.*)

9 **VII. Releases**

10 **A. Class Release**

11 Pursuant to the Court’s Order, the Parties have amended the Settlement Agreement to omit
12 language from the class release which attempted to release claims “known or unknown,
13 contingent or vested.” (SA § 5.4.) The Parties also updated the Notice to omit the quoted language
14 from the class release.

15 **B. PAGA Release**

16 The Parties amended the Settlement Agreement to reference that Aggrieved Employees
17 release PAGA claims as part of the settlement. (SA § 5.5.) That same reference was also included
18 in the amended version of the Notice.

19 **VIII. Proposed Order**

20 Attached to the Supp. Rauchwerger Decl. at Exhibit C is a redline version of the
21 [Proposed] Order showing a few changes that were made to the original version to reflect some
22 of the changes referenced above. (Rauchwerger Supp. Decl. ¶ 2, **Exhibit C.**) Plaintiff is also
23 providing a word-editable version of the Amended [Proposed] Order to the Court at
24 ComplexLit@sftc.org.

25 **IX. Notice to LWDA**

26 Pursuant to California Labor Code section 2699(l), the Amended Settlement Agreement
27 and supplemental briefing in support of the motion for preliminary approval have been provided
28 to the Labor and Workforce Development Agency and a proof of service is attached as **Exhibit**

D to the Supplemental Declaration of Devin Rauchwerger. (Rauchwerger Supp. Decl. ¶ 5.)

X. Conclusion

Plaintiff respectfully requests that the Court find that the Parties have addressed all issues identified in the Court's prior order and grant preliminary approval of the Settlement as amended.

Dated: December 9, 2025

Respectfully submitted,

DOMB & RAUCHWERGER LLP

By:



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