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14 [Additional counsel on following page]

15
16 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
17 **FOR THE COUNTY OF SAN BERNARDINO**

18 JOSHUA LEONARD, as an individual and
19 on behalf of all others similarly situated,

20 Plaintiff,

21 vs.

22 AMERICAN BEEF PACKERS, INC., a
23 California corporation; and DOES 1 through
24 100,

25 Defendants.

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

SEP 13 2021

BY 
JESSICA MORALES, DEPUTY

Case No.: CIVDS1710174

[Assigned for all purposes to the Hon. David
Cohn, Dept. S-26]

**[AMENDED PROPOSED] FINAL
JUDGMENT**

Date: September 9, 2021
Time: 10:00 a.m.
Dept.: S-26

Concurrently filed with:

- ❖ Plaintiff's Notice of Motion and Motion for Final Approval
- ❖ Declaration of Elizabeth Nguyen
- ❖ Declaration of Scott M. Lidman
- ❖ Declaration of Milan Moore
- ❖ Declaration of Romina Tamiry
- ❖ Declaration of Paul K. Haines
- ❖ Declaration of Plaintiff Joshua Leonard
- ❖ Declaration of Elizabeth Kruckenberg
- ❖ Declaration of Cinthia Reyes
- ❖ Proposed Order Granting Plaintiff's Motion for Final Approval

Action Filed: May 31, 2017
Trial Date: None Set

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1 This matter came on regularly for hearing before this Court on September 9, 2021,
2 pursuant to California Rule of Court 3.769 and this Court’s April 22, 2021 Order Granting
3 Preliminary Approval of Class Action Settlement (“Preliminary Approval Order”). Having
4 considered the parties’ Stipulation of Settlement and Joint Stipulation to Set Deadline for
5 Payment of Increase to Gross Settlement as A Result of Escalator Clause (collectively referred
6 to hereinafter as “Settlement” or “Settlement Agreement”)¹ and the documents and evidence
7 presented in support thereof, and the submissions of counsel, the Court hereby ORDERS and
8 enters JUDGMENT as follows:

9 1. Final judgment (“Judgment”) in this matter is hereby entered in conformity with
10 the Settlement, the Preliminary Approval Order, and this Court’s Order Granting Final Approval
11 of Class Action Settlement. The Settlement Class is defined as:

12 All current and former non-exempt, hourly employees of Defendant American Beef
13 Packers, Inc. (including employees who worked for American Beef Packers Inc.
14 through a staffing agency) who worked in California at any time from December
15 19, 2015 through April 22, 2021.

16 2. Plaintiff Joshua Leonard is hereby confirmed as Class Representative, and Scott
17 M. Lidman, Elizabeth Nguyen, Milan Moore, and Romina Tamiry of Lidman Law, APC and
18 Paul K. Haines of Haines Law Group, APC are hereby confirmed as Class Counsel.

19 3. Notice was provided to the Settlement Class as set forth in the Settlement. The
20 form and manner of notice were approved by the Court on April 22, 2021, and the notice process
21 has been completed in conformity with the Court’s Order. The Court finds that said notice was
22 the best notice practicable under the circumstances. The Notice Packet provided due and
23 adequate notice of the proceedings and matters set forth therein, informed Settlement Class
24 members of their rights, and fully satisfied the requirements of California Code of Civil
25 Procedure § 1781(e), California Rule of Court 3.769, and due process.

26 _____
27 ¹ Unless otherwise indicated, all terms used in this Order shall have the same meaning as that
28 assigned to them in the Settlement.

1 4. The Court finds that no Settlement Class member objected to the Settlement and
2 two Settlement class members have opted out of the Settlement, and that the 99.79%²
3 participation rate in the Settlement supports final approval. The two (2) individuals who
4 submitted timely requests for exclusion are Javier Soto and Sarah M. Naab.

5 5. The Court hereby approves the settlement as set forth in the Settlement
6 Agreement as fair, reasonable, and adequate, and directs the parties to effectuate the Settlement
7 Agreement according to its terms.

8 6. For purposes of settlement only, the Court finds that (a) the members of the
9 Settlement Class are ascertainable and so numerous that joinder of all members is impracticable;
10 (b) there are questions of law or fact common to the Settlement Class, and there is a well-defined
11 community of interest among members of the Settlement Class with respect to the subject matter
12 of the litigation; (c) the claims of the Class Representative are typical of the claims of the
13 members of the Settlement Class; (d) the Class Representative has fairly and adequately
14 protected the interests of the Settlement Class members; (e) a class action is superior to other
15 available methods for an efficient adjudication of this controversy; and (f) Class Counsel are
16 qualified to serve as counsel for the Class Representative and the Settlement Class.

17 7. The Court orders that American Beef Packers, Inc. deliver the Gross Settlement
18 Amount of \$1,564,298.13 to Phoenix Settlement Administrators, the Settlement Administration,
19 based on the payment plan, as provided for in the Settlement. Specifically, the first disbursement
20 will occur within 17 calendar days after American Beef Packers, Inc. deposits the second
21 payment such that there is a total gross amount of \$1,250,000.00 to be distributed as follows:

- 22 a. \$416,666.66 (which is 1/3 of \$1,250,000) in Class Counsel's attorneys' fees;
23

24 ² Class Notice was mailed to 940 Settlement Class Members. However, Carlos Reyes is excluded
25 from this Settlement because ABP contends it employed a person (whose actual identity is
26 unknown) who held himself out to be Carlos Reyes and upon discovering the theft identity issue,
27 Defendant American Beef Packers, Inc. terminated this individual on or about June 30, 2018.
28 Therefore, the correct class size is 939 and with the two requests for exclusion the participation
rate is 99.79% (937/939).

- b. \$48,571.26 in actual costs and expenses incurred by Class Counsel;
- c. \$50,000 as the PAGA civil penalties (of which \$37,500 shall be paid to the LWDA and \$12,500 shall be distributed to certain Settlement Class Members;
- d. \$7,500 for the Plaintiff's Class Representative Award;
- e. \$11,000 to the Settlement Administrator; and
- f. The balance that remains after the amounts identified in 7.a. through 7.e. are deducted from \$1,250,000 shall be distributed to the Settlement Class Members (who do not opt out on a pro rata basis pursuant to Paragraph 5 of the Settlement Agreement)

8. Subsequently, American Beef Packers, Inc. will fund the additional amount of \$314,298.13 on or before January 13, 2023 and the Settlement Administrator shall disburse the second and final disbursement to Settlement Class members within 17 calendar days after Defendant deposits the third payment (due on or before January 13, 2023) as follows:

- a. \$104,766.05 (which is 1/3 of the increase of \$314,298.13) in Class Counsel's attorneys' fees;
- b. \$1,500 to the Settlement Administrator for increased fees related to the second distribution of Individual Settlement Amounts reporting of taxes of same, among other settlement administration duties; and
- c. The balance that remains after the amounts approved by the Court for 8.a. through 8.c. are deducted from \$314,298.13 shall distributed to the Settlement Class Members (who do not opt out on a pro rata basis pursuant to Paragraph 5 of the Settlement).

9. The Court finds that the settlement payments, as provided for in the Settlement, are fair, reasonable, and adequate, and orders the Settlement Administrator to distribute the individual payments in conformity with the terms of the Settlement.

10. The Court finds that a service award in the amount of \$7,500.00 for Plaintiff Joshua Leonard is appropriate for his risks undertaken and service to the Settlement Class. The

1 Court finds that this award is fair, reasonable, and adequate, and orders that the Settlement
2 Administrator make this payment in conformity with the terms of the Settlement.

3 11. The Court finds that attorneys' fees in the amount of \$521,432.71, and actual
4 litigation costs of \$48,571.26 for Class Counsel, are fair, reasonable, and adequate, and orders
5 that the Settlement Administrator distribute these payments to Class Counsel in conformity with
6 the terms of the Settlement. Specifically, \$416,666.66 in attorneys' fees and costs of \$48,571.26
7 will be paid after the second installment payment and the remaining amount of \$104,766.05 in
8 attorneys' fees will be paid after the third and final installment payment.

9 12. The Court orders that the Settlement Administrator shall be paid \$12,500.00 from
10 the Gross Settlement Amount for all of its work done and to be done until the completion of this
11 matter, and finds that sum appropriate. Specifically, \$11,000.00 will be paid to the Settlement
12 Administrator after the second installment payment and the remaining amount of \$1,500.00 will
13 be paid after the third and final installment payment.

14 13. The Court finds that the payment to the California Labor & Workforce
15 Development Agency ("LWDA") in the amount of \$37,500.00 for its share of the settlement of
16 Plaintiff's representative action under the California Labor Code Private Attorneys General Act
17 ("PAGA") is fair, reasonable, and adequate, and orders the Settlement Administrator to distribute
18 this payment to the LWDA in conformity with the terms of the Settlement.

19 14. Pursuant to the terms of the Settlement, the employer's share of payroll taxes for
20 the portion of the Net Settlement Amount allocated to wages shall be paid by American Beef
21 Packers, Inc. separately, and in addition to, the Gross Settlement Amount.

22 15. The Court finds and determines that upon satisfaction of all obligations under the
23 Settlement and this Order, all Settlement Class members will be bound by the Settlement,³ will
24

25 ³ Carlos Reyes is excluded from this Settlement because ABP contends it employed a person
26 (whose actual identity is unknown) who held himself out to be Carlos Reyes and upon discovering
27 the theft identity issue, Defendant American Beef Packers, Inc. terminated this individual on or
28 about June 30, 2018. Moreover, Javier Soto and Sarah M. Naab submitted timely requests for
exclusion.

1 have released the Released Claims as set forth in the Settlement, and will be permanently barred
2 from prosecuting against Defendant any of the Released Claims pursuant to the Settlement.

3 16. Upon satisfaction of all obligations under the Settlement and the Final Approval
4 Order, by virtue of this Judgment, Plaintiff and every member of the Settlement Class will fully
5 and forever completely release and discharge Defendant, and all of its past and present officers,
6 directors, shareholders, managers, employees, agents, principals, heirs, representatives,
7 accountants, auditors, consultants, and its respective successors and predecessors in interest,
8 subsidiaries, affiliates, parents and attorneys, (collectively the "Released Parties"), from all
9 claims, demands, rights, liabilities and causes of action that were pled in any of the Complaints
10 in the Action (including the Second Amended Complaint), or which could have been pled in any
11 of the Complaints in the Action based on the factual allegations therein, that arose during the
12 Class Period with respect to the following claims: (a) failure to provide meal periods, or premium
13 pay for non-compliant meal periods; (b) failure to authorize and permit rest periods, or premium
14 pay for non-compliant rest periods; (c) failure to pay overtime wages owed; (d) failure to pay all
15 minimum wages owed; (e) failure to issue accurate, itemized wage statements; (f) payment of
16 wages less than required by contract; (g) failure to pay all wages upon separation of employment;
17 (h) all claims for unfair business practices that could have been premised on the facts, claims,
18 causes of action or legal theories described above; and (i) a claim under California Labor Code
19 Private Attorneys General Act of 2004 that could have been premised on the facts, claims, causes
20 of action or legal theories described above (collectively, the "Released Claims"). The period of
21 the Release shall extend to the limits of the Class Period.

22 17. In light of the Class Representative Service Award, Plaintiff agrees to release, in
23 addition to the Released Claims described above, all claims, whether known or unknown, under
24 federal law or state law against the Released Parties. Notwithstanding the foregoing, Plaintiff
25 understands that this release includes unknown claims, which includes waiving all rights and
26 benefits afforded by Section 1542 of the California Civil Code, which provides:

1 **A general release does not extend to claims that the creditor or**
2 **releasing party does not know or suspect to exist in his or her favor**
3 **at the time of executing the release, and that if known by him or**
4 **her would have materially affected his or her settlement with the**
5 **debtor or released party.**

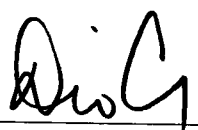
6 18. The releases identified herein will only be effective on the date that Defendant
7 fully funds the Gross Settlement Amount.

8 19. This document shall constitute a final judgment pursuant to California Rule of
9 Court 3.769(h), which provides, "If the court approves the settlement agreement after the final
10 approval hearing, the court must make and enter judgment. The judgment must include a
11 provision for the retention of the court's jurisdiction over the parties to enforce the terms of the
12 judgment. The court may not enter an order dismissing the action at the same time as, or after,
13 entry of judgment."

14 20. The Court will retain jurisdiction to enforce the Settlement, the Final Approval
15 Order, and this Judgment.

16
17 **JUDGMENT IS SO ENTERED.**

18
19 Dated: 9/13 , 2021

20 
21 _____
22 Honorable David Cohn
23 Judge of the Superior Court
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PROOF OF SERVICE

Joshua Leonard v. American Beef Packers, Inc., et al
San Bernardino County Superior Court Case No. CIVDS1710174

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 2155 Campus Drive, Suite 150, El Segundo, California 90245.

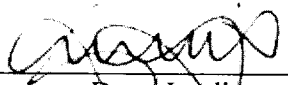
On September 10, 2021, I served the document(s) described as: **[AMENDED PROPOSED] FINAL JUDGMENT** on the interested party(ies) in this action as follows:

John R. DaCorsi, Esq.
Michael M. Hernandez, Esq.
DACORSI PLACENCIO P.C.
21031 Ventura Boulevard, Suite 640
Woodland Hills, CA 91364
Attorneys for Defendant AMERICAN BEEF PACKERS, INC.

(BY MAIL) I am "readily familiar" with Lidman Law, APC's practice of collection and processing correspondence for mailing. I enclosed the document(s) in a sealed envelope or package addressed to the persons at the address(es) listed above. Under the practice the correspondence would be deposited with the U.S. postal service on the same day with postage thereof fully prepaid at El Segundo, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postage cancellation date or postage date is more than one day after date of deposit for mailing in affidavit.

(STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on September 10, 2021, at El Segundo, California.



Dana Joudi