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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CARMEN SPICHER and DAVID FLEMING, Case No. 3:15-cv-05012-WHO
on behalf of themselves and all others
similarly situated,

Plaintiffs,

v.

AIDELLS SAUSAGE COMPANY, INC.,

Defendant. _____ /

**ORDER GRANTING PLAINTIFFS’
MOTION FOR SETTLEMENT CLASS
CERTIFICATION AND PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT**

1 Plaintiff's Motion for Preliminary Approval of the Class Action Settlement came
2 before this Court on March 1, 2017, the Honorable William H. Orrick presiding. The Court, having
3 considered the papers submitted in support of the application of the parties, HEREBY ORDERS
4 THE FOLLOWING:

5 1. The Court grants preliminary approval of the Settlement and the Settlement
6 Class based upon the terms set forth in the Stipulation and Agreement of Compromise and
7 Settlement ("Settlement Agreement"), attached to the Declaration of James M. Finberg as **Exhibit 1**.
8 The Settlement appears to be fair, adequate, and reasonable to the Class.

9 2. The Settlement falls within the range of reasonableness and appears to be
10 presumptively valid, subject only to any objections that may be raised at the final fairness hearing
11 and final approval by this Court. The Court finds and concludes that the Settlement is the result of
12 arms-length negotiations between the parties conducted after Class Counsel had adequately
13 investigated Plaintiff's claims and become familiar with their strengths and weaknesses. The
14 assistance of an experienced mediator in the settlement process further confirms that the Settlement
15 is non-collusive. The Court further finds that the settlement of Plaintiff's representative claims
16 under the California Private Attorneys General Act (Cal. Labor Code §2698 *et seq.*) is fair and
17 reasonable and is approved.

18 3. A final fairness hearing on the question of whether the proposed Settlement,
19 attorneys' fees and costs to Class Counsel, appointment of a Claims Administrator and the Class
20 Representative's incentive payments should be finally approved as fair, reasonable, and adequate as
21 to the members of the Class is scheduled for **May 31, 2017, at 2 p.m.**, in Courtroom 2 before the
22 Honorable William H. Orrick.

23 4. The Court approves, as to form and content, the Notice of Class Action
24 Settlement ("Notice") attached to the Declaration of James M. Finberg at **Exhibit 1**. The proposed
25 Notice is the best notice practicable under the circumstances and allows Class Members a full and
26 fair opportunity to consider the Settlement, and decide whether or not to object or opt out. The Class
27 Notice fairly, plainly, accurately, and reasonably informs Class Members of: (1) appropriate
28 information about the nature of this action, the identity of Class Counsel, and the essential terms of

1 the Settlement, including the plan of distribution; (2) appropriate information about Plaintiffs’
2 forthcoming application for service payments for the Class Representatives and Class Counsel’s
3 application for Attorney’s Fees and Costs; (3) appropriate information about this Court’s procedures
4 for final approval of the Settlement, and about Class Members’ right to appear through counsel if
5 they desire; (4) appropriate information about how to object to the settlement, if they so choose; (5)
6 appropriate information about how to elect not to participate in the Settlement, if a Class Member
7 wishes not to participate; and (6) appropriate instructions as to how to obtain additional information
8 regarding this action and the Settlement.

9 5. The Court directs the mailing of the Notice and the Claim Form by first-class
10 mail to the Class Members in accordance with the Implementation Schedule set forth below. The
11 Court finds the dates selected for the mailing and distribution of the Notice, as set forth in the
12 Implementation Schedule, meet the requirements of due process and provide the best notice
13 practicable under the circumstances and shall constitute due and sufficient notice to all persons
14 entitled thereto.

15 6. It is ordered that the Settlement Class is preliminarily certified for settlement
16 purposes only under Federal Rule of Civil Procedure 23. The Court hereby finds and concludes that
17 the Settlement Class satisfies the requirements for certification under Rules 23(a) and (b)(3) of the
18 Federal Rules of Civil Procedure for purposes of settlement only. Because certification of the Class
19 is proposed in the context of a settlement, the Court need not inquire whether the case, if tried as a
20 class action, would present intractable management problems. Accordingly, the Court hereby
21 conditionally certifies the Class under Rule 23(a) and (b)(3) for purposes of the proposed settlement

22 7. The Court confirms the Altshuler Berzon, LLP and the Law Offices of Rudy,
23 Exelrod, Zieff & Lowe, L.L.P. as Class Counsel for purposes of settlement only. In making this
24 appointment, the Court has considered that Class Counsel has performed extensive work to date in
25 identifying and investigating potential claims in the action; that Class Counsel has extensive
26 experience in handling class actions and the types of claims asserted in this action; that Class
27 Counsel is very knowledgeable of the applicable law; and that Class Counsel have committed and
28 will continue to commit adequate resources to representing the Class.

1 8. The Court hereby appoints Carmen Spicher and David Fleming as Class
2 Representatives.

3 9. The Court confirms Settlement Services, Inc. as the Settlement Administrator.

4 10. The Court enjoins any Class Member, whether acting directly or in a
5 representative capacity, or in any other capacity, and whether or not any such Class Member has
6 appeared in the litigation, from asserting, instituting or prosecuting in any court or governmental
7 agency, any claims released in the Settlement against Defendant or any other parties released by the
8 Settlement, unless the Class Member has sent a timely exclusion notice opting out of the Settlement.
9 Provided, however, that all Class Members who worked in a Class position at any time since
10 September 29, 2014, including those who sent in a timely exclusion notice, are enjoined from
11 pursuing Private Attorneys General Act (“PAGA” Cal. Labor Code §2698 *et seq.*) claims, until
12 further notice. Provided, also, that this injunction shall be only in effect until the Court makes a
13 ruling on Final Approval of the Settlement. This injunction does not apply to any Fair Labor
14 Standards Act (“FLSA” 29 U.S.C. § 201 *et seq.*) claims of Class Members.

15 11. The Court orders the following Implementation Schedule for further
16 proceedings:

<u>EVENT</u>	<u>TIME</u>
18 Defendant provides Settlement Administrator with 19 the Class Data, (including each Class Member’s 20 employee number, full name, last-known address, 21 last-known home telephone number, Social 22 Security number, and start dates and end dates of 23 employment with Defendant) for purposes of 24 preparing and mailing Notice Packets to Class 25 Members. Defendant shall also provide Class 26 Counsel with, for persons who opted out of the 27 Belaire notice, the same information provided for 28 those who did not opt out, including their names, employee numbers, start and stop dates, and payroll information regarding their shifts worked.	14 days after Preliminary Approval
Deadline for Settlement Administrator to Mail Notice Packets to Class Members.	14 Days after receiving Class Member Data from Defendant.
Deadline for Class Members (Postmark) to Request Exclusion from the Class (opt out) or serve written objections to the Settlement.	45 Days after Notice of Proposed Class Action Settlement is mailed by the Settlement Administrator to Class Members.

<u>EVENT</u>	<u>TIME</u>
Deadline for Class Counsel to file Motion for Attorney's Fees and Costs.	21 days after Preliminary Approval of the Settlement.
Deadline for Class Counsel to file Motion for Final Approval of the Settlement.	14 days prior to the Final Fairness (Approval) Hearing date.
Final Fairness Hearing (Final Approval) Hearing and Hearing on Class Counsel's Motion for Attorney's Fees and Costs.	May 31, 2017.

12. This Order is in effect until further notice and is subject to modification at the Final Approval Hearing, or before.

IT IS SO ORDERED.

DATED: March 2, 2017



 WILLIAM H. ORRICK
 District Court Judge