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Attorneys for Plaintiff,
GEORGE SWAIN

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF MERCED
(UNLIMITED JURISDICTION)

GEORGE SWAIN, on behalf of himself and
all others similarly situated, and as an
"aggrieved employee" on behalf of other
"aggrieved employees" under the Labor Code
Private Attorneys General Act of 2004,

Plaintiff(s),

vs.

DIRECT DAIRY TRANSPORT, LLC, a
California limited liability company; BRAD
NYMAN, an individual; and DOES 1-50,
inclusive,

Defendant(s).

Case No.: 19CV-00913

**SECOND REQUEST AND ~~PROPOSED~~
ORDER TO CONTINUE (1) THE
DEADLINE TO FILE MOTION FOR
FINAL OF CLASS ACTION
SETTLEMENT, (2) THE HEARING ON
MOTION FOR FINAL OF CLASS
ACTION SETTLEMENT, AND (3) THE
CASE MANAGEMENT CONFERENCE**

Action filed: 02/28/2019
CMC: 11/30/2020, 8:15 a.m.
Hearing: 11/30/2020, 8:15 a.m.
FSC: Not set
Trial: Not set
Department: 8, Hon. Brian McCabe

FILED

2020 SEP -3 AM 11:51

CLERK OF THE SUPERIOR COURT

BY  DEPUTY

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Plaintiff George Swain (“Plaintiff”), by and through his counsel of record, David Spivak and Maralle Messrelian of The Spivak Law Firm, requests as follows:

1. WHEREAS, on August 5, 2020, the Court entered an Order Granting Preliminary Approval of Class Action Settlement (the “Preliminary Approval Order”) which set a Final Approval Hearing for October 26, 2020 at 8:15 a.m. in Department 8 and a deadline for Plaintiff to file his motion for final approval of class action settlement by September 25, 2020.

2. WHEREAS, on August 10, 2020 and by request of Plaintiff, the Court continued the Case Management Conference and Final Approval Hearing to November 30, 2020 at 8:15 a.m. in Department 8.

3. WHEREAS, based on the Settlement Administrator’s timeline, the parties estimate the following schedule:

- a. The Settlement Administrator will mail the notice packet to class members by approximately September 4, 2020;
- b. The class members’ deadline to object to or request exclusion from the settlement will be approximately November 3, 2020;
- c. The Settlement Administrator will provide a declaration (which includes the number of class members’ who requested to be excluded from the Settlement) by approximately November 10, 2020; and
- d. Defendants’ option to void the Settlement (if the number of class members timely completing valid requests for exclusion from the Settlement (opt out) is five percent (5%) or more of all class members) will be approximately December 10, 2020. *Id.*, Settlement ¶ 46.

4. THEREFORE, in view of the circumstances, the parties met and conferred and Plaintiffs request that the Court continue the Case Management Conference and Final Approval Hearing from November 30, 2020 to January 12, 2021, or any subsequent date as may be convenient to the Court.

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5. Defendants do not oppose Plaintiff's request.

Respectfully submitted,

THE SPIVAK LAW FIRM



Dated: August 26, 2020

By _____

DAVID SPIVAK
MARALLE MESSRELIAN
Attorneys for Plaintiff, GEORGE SWAIN, and
all others similarly situated

~~PROPOSED~~ ORDER

After considering Plaintiff's request and good cause appearing therefore, the Court orders as follows:

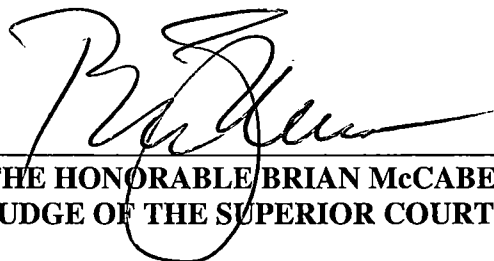
1. The Case Management Conference and Final Approval Hearing are continued from November 30, 2020 at 8:15 a.m. to ~~January 13, 2021 at 8:15 a.m.~~ January 25, 2021 at 8:15 (a.m./p.m.) in Department 8 of the above-entitled Court; and

2. Plaintiff shall file the motion for final approval of class action settlement sixteen (16) court days before the continued Final Approval Hearing mentioned above.

IT IS SO ORDERED.

SEP - 3 2020

DATE



THE HONORABLE BRIAN McCABE
JUDGE OF THE SUPERIOR COURT

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PROOF OF SERVICE

State of California,
County of Los Angeles

1. I am a citizen of the United States and am employed in the County of Los Angeles, State of California. I am over the age of 18 years, and not a party to the within action. My business address is 16530 Ventura Blvd., Suite 203, Encino, California 91436.

2. I am familiar with the practice of The Spivak Law Firm, for collection and processing of correspondence for mailing with the United States Postal Service. It is the practice that correspondence is deposited with the United States Postal Service the same day it is submitted for mailing.

On Wednesday, August 26, 2020, I served the foregoing document described as **SECOND REQUEST AND [PROPOSED] ORDER TO CONTINUE (1) THE DEADLINE TO FILE MOTION FOR FINAL OF CLASS ACTION SETTLEMENT, (2) THE HEARING ON MOTION FOR FINAL OF CLASS ACTION SETTLEMENT, AND (3) THE CASE MANAGEMENT CONFERENCE** on interested parties by placing a true and correct copy thereof enclosed in a sealed envelope, with postage fully prepaid, addressed as follows:


Stacy L. Henderson, Esq.
Terpstra Henderson
578 N Wilma Ave., Ste. A
Ripon, CA 95366
shenderson@thtlaw.com

XXXX (BY EMAIL) Based on a court order or an agreement of the parties to accept electronic service, I caused the documents to be sent to the persons at the electronic service addresses listed above from my electronic service address breck@spivaklaw.com or boyama@spivaklaw.com.

EXECUTED on Wednesday, August 26, 2020, at Los Angeles, California.

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

____ (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.



BRECK OYAMA