

**ENDORSED FILED  
SAN MATEO COUNTY**

AUG 14 2023

Clerk of the Superior Court  
By ANDREA DALEY  
DEPUTY CLERK

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6/27/2023

CLERK OF THE SUPERIOR COURT  
SAN MATEO COUNTY

Attorneys for Plaintiff

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN MATEO

ADRIAN OCHOA-ANDRADE, an individual, on behalf of himself, and on behalf of all persons similarly situated,

Case No. 22-CIV-02481

Plaintiffs,

~~PROPOSED~~ PRELIMINARY APPROVAL ORDER

v.

SEE'S CANDIES, INC; a California Corporation; and DOES 1 through 50, inclusive,

Hearing Date: July 25, 2023  
Hearing Time: 2:00 p.m.

Defendants.

Judge: Hon. Marie S. Weiner  
Dept.: 2 / Courtroom: 2E

Complaint Filed: June 16, 2022  
Trial Date: Not Set

This matter, having come before the Honorable Marie S. Weiner of the Superior Court of the State of California, in and for the County San Mateo, on July 25, 2023, for the motion by Plaintiff Adrian Ochoa-Andrade ("Plaintiff") for preliminary approval of the class settlement with Defendant See's Candies, Inc. ("Defendant"). The Court, having considered the briefs, argument of counsel and all matters presented to the Court and good cause appearing, hereby GRANTS Plaintiff's Motion for Preliminary Approval of Class Action Settlement.

1           **IT IS HEREBY ORDERED:**

2           1.       The Court preliminarily approves the Class Action and PAGA Settlement Agreement  
3 ("Agreement") attached as Exhibit #1 to the Declaration of Kyle Nordrehaug in Support of  
4 Plaintiff's Motion for Preliminary Approval of Class Action Settlement, <sup>as amended by this Order.</sup> This is based on the  
5 Court's determination that the Settlement set forth in the Agreement is within the range of possible  
6 final approval, pursuant to the provisions of Section 382 of the California Code of Civil Procedure  
7 and California Rules of Court, rule 3.769.

8           2.       This Order incorporates by reference the definitions in the Agreement, and all terms  
9 defined therein shall have the same meaning in this Order as set forth in the Agreement.

10          3.       The Gross Settlement Amount is Nine Hundred Thousand Dollars (\$900,000). It  
11 appears to the Court on a preliminary basis that the settlement amount and terms are fair, adequate,  
12 and reasonable as to all potential Class Members when balanced against the probable outcome of  
13 further litigation and the significant risks relating to certification, liability and damages issues. It  
14 further appears that investigation and research have been conducted such that counsel for the Parties  
15 are able to reasonably evaluate their respective positions. It further appears to the Court that  
16 settlement at this time will avoid substantial additional costs by all Parties, as well as avoid the delay  
17 and risks that would be presented by the further prosecution of the Action. It further appears that the  
18 Settlement has been reached as the result of serious and non-collusive, arms-length negotiations. The  
19 Court therefore preliminarily finds that the Settlement is fair, adequate, and reasonable when  
20 balanced against the probable outcome of further litigation and the significant risks relating to  
21 certification, liability, and damages issues.

22          4.       The Agreement specifies for an attorneys' fees award not to exceed one-third of the  
23 Gross Settlement Amount, an award of litigation expenses incurred, not to exceed \$20,000, and  
24 proposed Class Representative Service Payment to the Plaintiff in an amount not to exceed \$10,000.  
25 The Court will not approve the amount of attorneys' fees and costs, nor the amount of any service  
26 award, until the Final Approval Hearing.

27          5.       The Court recognizes that Plaintiff and Defendant stipulate and agree to certification  
28 of a class for settlement purposes only. This stipulation will not be deemed admissible in this or any

1 other proceeding should this Settlement not become final. For settlement purposes only, the Court  
2 conditionally certifies the following Class: <sup>See's Candies Inc.</sup> "All individuals who were employed by Defendant in  
3 California and classified as a non-exempt, non-retail manufacturing employee at any time during the  
4 ~~Class Period, but excluding any individuals who are class members in *Lauralynn Cristobal and*~~  
~~*Meisha Henry v. See's Candy, Inc.*~~ <sup>PLUS the claims of Adrian Ochoa-Andrade and Nehusita Osamu</sup>  
5 ~~Superior Court of the State of California, County of Los Angeles, Case No. 19STCV07389, except such individuals who worked for Defendant in California~~  
6 ~~for the period June 16, 2018 through July 26, 2023.~~  
7 after November 21, 2020." The Class Period is from June 16, 2018, through  
8 ~~2023.~~

9 6. The Court concludes that, for settlement purposes only, the Class meets the  
10 requirements for certification under section 382 of the California Code of Civil Procedure in that: (a)  
11 the Class is ascertainable and so numerous that joinder of all members of the Class is impracticable;  
12 (b) common questions of law and fact predominate, and there is a well-defined community of  
13 interest amongst the members of the Class with respect to the subject matter of the litigation; (c) the  
14 claims of the Plaintiff are typical of the claims of the members of the Class; (d) the Plaintiff can  
15 fairly and adequately protect the interests of the members of the Class; (e) a class action is superior  
16 to other available methods for the efficient resolution of this controversy; and (f) counsel for the  
17 Class is qualified to act as counsel for the Class and the Plaintiff are adequate representatives of the  
18 Class.

19 7. The Court provisionally appoints Plaintiff as the representative of the Class. The  
20 Court provisionally appoints Norman B. Blumenthal, Kyle R. Nordrehaug, Aparajit Bhowmik,  
21 Nicholas J. De Blouw, Jeffrey S. Herman, Sergio J. Puche of Blumenthal Nordrehaug Bhowmik De  
22 Blouw LLP as Class Counsel for the Class.

23 8. The Court hereby approves, as to form and content, the Court Approved Notice of  
24 Class Action Settlement and Hearing Date for Final Court Approval ("Class Notice") attached <sup>here to</sup> to the  
25 ~~Agreement as Exhibit A.~~ The Court finds that the Class Notice appears to fully and accurately  
26 inform the Class of all material elements of the proposed Settlement, of the Class Members' right to  
27 be excluded from the Class by submitting a written opt-out request, and of each Class Member's  
28 right and opportunity to object to the Settlement. The Court further finds that the distribution of the

1 Class Notice substantially in the manner and form set forth in the Agreement and this Order meets  
2 the requirements of due process, is the best notice practicable under the circumstances, and shall  
3 constitute due and sufficient notice to all persons entitled thereto. The Court orders the mailing of  
4 the Class Notice by first class mail, pursuant to the terms set forth in the Agreement.

5 9. The Court hereby appoints ~~CEFCO~~ **APEX** Group as Administrator. No later than ~~15 calendar~~ **August 21, 2023,**  
6 ~~days after preliminary approval of the Settlement by the Court,~~ Defendant shall provide to the  
7 Administrator an electronic spreadsheet with the Class Data. The Administrator will perform  
8 address updates and verifications as necessary prior to the mailing of the Class Notice. Using best  
9 efforts to mail it as soon as possible, and in no event later than ~~14 days after receiving the Class~~ **August 31, 2023**  
10 ~~Data,~~ the Administrator will mail the Class Notice Packets to all Class Members via first-class U.S.  
11 Mail. Before mailing Class Notices, the Administrator shall update Class Member addresses using  
12 the National Change of Address database. **Costs of Apex shall not exceed \$25,000.**

13 10. The Court hereby preliminarily approves the proposed procedure for exclusion from  
14 the Settlement. Any Class Member may individually choose to opt out of and be excluded from the  
15 Class as provided in the Class Notice by following the instructions for requesting exclusion from the  
16 Class that are set forth in the Class Notice. All requests for exclusion must be postmarked by no  
17 later than the Response Deadline, which is sixty (60) calendar days after the date of the mailing of  
18 the Class Notice and received by the Administrator. If the Class Notice Packet is re-mailed, the  
19 Response Deadline for requests for exclusion will be extended an additional 14 days. Any such  
20 person who chooses to opt out of and be excluded from the Class will not be entitled to any recovery  
21 under the Settlement and will not be bound by the Settlement or have any right to object, appeal or  
22 comment thereon. Class Members who have not requested exclusion shall be bound by all  
23 determinations of the Court, the Agreement and the Judgment. A request for exclusion may only opt  
24 out that particular individual, and any attempt to affect an opt out of a group, class, or subclass of  
25 individuals is not permitted and will be deemed invalid. Subject to the Court's final approval of the  
26 Settlement, the Aggrieved Employees will be paid their allocation of the PAGA Penalties and will  
27 remain bound by the release of the Released PAGA Claims in the Agreement regardless of their  
28 request for exclusion.

1           11. Any Class Member who has not opted out (“Participating Class Member”) may  
2 appear at the final approval hearing and may object or express the Member’s views regarding the  
3 Settlement and may present evidence and file briefs or other papers that may be proper and relevant  
4 to the issues to be heard and determined by the Court as provided in the Class Notice. Participating  
5 Class Members will have until the Response Deadline to submit their written objections to the  
6 Administrator in accordance with the instructions in the Class Notice. If the Class Notice Packet is  
7 re-mailed, the Response Deadline for written objections will be extended an additional 14 days.  
8 Alternatively, Participating Class Members may appear at the Final Approval Hearing to make an  
9 oral objection.

10           12. A Final Approval Hearing shall be held before this Court on November 28, 2023 at  
11 2:00 p.m. in Department 2 at the San Mateo County Superior Court to hear both the motion for final  
12 approval and the motion for attorneys’ fees, and to determine all necessary matters concerning the  
13 Settlement, including: whether the proposed settlement of the Action on the terms and conditions  
14 provided for in the Agreement is fair, adequate and reasonable and should be finally approved by the  
15 Court; whether the Final Approval Order and Judgment should be entered herein; whether the plan  
16 of allocation contained in the Agreement should be approved as fair, adequate and reasonable to the  
17 Class Members; and to finally approve attorneys’ fees and costs, the service award, and the expenses  
18 of the Administrator. All papers in support of the motion for final approval and the motion for  
19 attorneys’ fees, costs and service award, both to be heard at the Final Approval Hearing, shall be  
20 filed with the Court and served on all counsel no later than sixteen (16) court days before the  
21 hearing *(which would be November 1, 2023)*.

22           13. Neither the Settlement nor any exhibit, document, or instrument delivered thereunder  
23 shall be construed as a concession or admission by Defendant in any way that the claims asserted  
24 have any merit or that this Action was properly brought as a class or representative action, and shall  
25 not be used as evidence of, or used against Defendant as, an admission or indication in any way,  
26 including with respect to any claim of any liability, wrongdoing, fault or omission by Defendant or  
27 with respect to the truth of any allegation asserted by any person. Whether or not the Settlement is  
28 finally approved, neither the Settlement, nor any exhibit, document, statement, proceeding or

1 conduct related to the Settlement, nor any reports or accounts thereof, shall in any event be construed  
2 as, offered or admitted in evidence as, received as or deemed to be evidence for any purpose adverse  
3 to the Defendant, including, but not limited to, evidence of a presumption, concession, indication or  
4 admission by Defendant of any liability, fault, wrongdoing, omission, concession or damage.

5 14. In the event the Settlement does not become effective in accordance with the terms of  
6 the Agreement, or the Settlement is not finally approved, or is terminated, canceled or fails to  
7 become effective for any reason, this Order shall be rendered null and void and shall be vacated, and  
8 the Parties shall revert to their respective positions as of before entering into the Agreement, and  
9 expressly reserve their respective rights regarding the prosecution and defense of this Action,  
10 including all available defenses and affirmative defenses, and arguments that any claim in the Action  
11 could not be certified as a class action and/or managed as a representative action. In such an event,  
12 the Court's orders regarding the Settlement, including this Order, shall not be used or referred to in  
13 litigation for any purpose.

14 15. The Court reserves the right to adjourn or continue the date of the final approval  
15 hearing and all dates provided for in the Agreement without further notice to Class Members and  
16 retains jurisdiction to consider all further applications arising out of or connected with the proposed  
17 Settlement.

18 16. The Action is stayed, *other than the Motion for Final Approval*  
*and related matters.* ~~and all trial and related pre-trial dates are vacated, subject to~~  
19 ~~further orders of the Court at the Final Approval Hearing.~~

20 **IT IS SO ORDERED.**

21  
22 Dated: 8/14/23

  
\_\_\_\_\_  
HON. MARIE S. WEINER  
JUDGE, SUPERIOR COURT OF CALIFORNIA

**NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION  
AND HEARING DATE FOR FINAL COURT APPROVAL**

*(Ochoa-Andrade v. See's Candies, Inc., Superior Court of the State of California,  
County of San Mateo, Case No. 22-CIV-02481)*

**YOU ARE ELIGIBLE TO RECEIVE A SETTLEMENT PAYMENT.  
PLEASE READ THIS NOTICE CAREFULLY.**

<b>SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:</b>	
<b>Do Nothing and Receive a Payment</b>	<p>To receive a cash payment from the Settlement, you do <b>not</b> have to do anything. If you do nothing, you will be mailed a settlement payment and you will release certain claims as detailed in Section 4 below.</p> <p><b>Your estimated Individual Class Payment is: \$&lt;&lt; __ &gt;&gt;. Your estimated Individual PAGA Payment is \$&lt;&lt; __ &gt;&gt;. See the explanation in Section 5 below.</b></p> <p>After final approval by the Court, the payment will be mailed to you at the same address as this notice. If your address has changed, or if it changes before you receive your settlement payment, you must notify the Administrator as explained in Section 6 below.</p>
<b>Exclude Yourself</b>	<p>To exclude yourself, you must send a written request for exclusion to the Administrator as provided below. <b>If you request exclusion, you will receive no money from the Class Settlement.</b></p> <p>You cannot opt out of the PAGA portion of the proposed Settlement. You will still receive an Individual PAGA Payment and release the Released PAGA Claims (described below).</p> <p>Instructions are set forth in Section 7 below.</p>
<b>Object to Class Settlement</b>	<p>Write to the Court about why you do not agree with the Settlement, and/or appear at the Final Approval Hearing to make an oral objection. You cannot both exclude yourself and object.</p> <p>Directions are provided in Section 8 below.</p>

**See's Candies, Inc. will not retaliate against you for any actions you take with respect to the proposed Settlement.**

**1. Why did I get this Notice?**

A proposed class action settlement (the "Settlement") of the above-captioned lawsuit pending in the Superior Court of the State of California, in and for the County of San Mateo (the "Court") has been reached between Plaintiff Adrian Ochoa-Andrade ("Plaintiff") and Defendant See's Candies, Inc. ("Defendant"). The Court has granted preliminary approval of the Settlement and ordered this Notice be sent to you because you may be entitled to money under the Settlement and because the Settlement affects your legal rights.

You have received this Class Notice because you have been identified as a member of the Class, which is defined as:

**SEE'S Candies Inc.**

All individuals who were employed by Defendant in California and classified as a non-exempt, non-retail manufacturing employee at any time during the Class Period, but excluding any individuals who are class members in *Lauralynne Cristobal and Meisha Henry v. See's Candy, Inc.*, Superior Court of the State of California, County of Los Angeles, Case No. 19STCV07389, except such individuals who worked for Defendant in California after November 21, 2020.

The Class Period is from June 16, 2018 through \_\_\_\_\_, 2023.

This Class Notice explains the lawsuit, the Settlement, and your legal rights. It is important that you read this Class Notice carefully as your rights may be affected by the Settlement.

**2. What is this lawsuit about?**

On June 16, 2022, Plaintiff commenced this Action by filing a Class Action Complaint against Defendant in the Superior Court of the State of California, County of San Mateo, Case No. 22-CIV-02481, alleging the following class claims against Defendant: (i) unfair competition, (ii) failure to pay minimum wages, (iii) failure to pay overtime wages, (iv) failure to provide required meal periods, (v) failure to provide required rest periods, (vi) failure to provide expense reimbursement, (vii) failure to provide accurate itemized wage statements and (viii) failure to provide wages when due. On September 22, 2023, Plaintiff filed a First Amended Class Action Complaint that carved out claims by individuals who worked for Defendant in California and were class members in *Lauralynne Cristobal and Meisha Henry v. See's Candy, Inc.*, Superior Court of the State of California, County of Los Angeles, Case No. 19STCV07389, whose claims were released through November 21, 2020.

On August 1, 2022, Plaintiff filed a separate Representative Action Complaint against Defendant in the Superior Court of the State of California, County of San Mateo. Plaintiff's Complaint asserted a claim for civil penalties pursuant to the Private Attorneys General Act of 2004 (PAGA) for the alleged violations of the Labor Code.

As part of this Settlement, the Parties stipulated to leave for Plaintiff to file a Second Amended Complaint in the first-filed Class Action that adds the claim alleged in the Representative Action, and thereafter dismisses the separate Representative Action without prejudice. The Second Amended Complaint filed in the Class Action on July 7, 2023 is referred to as the "Operative Complaint."

Defendant denies and disputes all of the claims asserted against it. Specifically, Defendant contends that Plaintiff and the Class Members were properly compensated for wages under California law; that Class Members properly received all meal and rest periods; that Defendant complied with California wage statement requirements; that Defendant timely paid all wages during employment and upon separation or termination of employment; that Defendant indemnified employees for any necessary business expenses; that Defendant is not liable for any

from November 22, 2020 through July 26, 2023.  
PLUS the claims of Adrian Ochoa-Andrade and Nehusita Osamu for the period June 16, 2018 through July 26, 2023.



of the penalties claimed or that could be claimed in the Action; and that the Action cannot be maintained as a class action.

The Court has not decided whether Defendant or Plaintiff is correct. Plaintiff would have had to prove his claims at a trial on a class-wide and representative basis. Defendant denies and disputes all such claims and asserts that it has no liability to Plaintiff or any of the Class Members. To avoid additional expense, inconvenience, and risks of continued litigation, however, the Parties have concluded that it is in their respective best interests and the interests of the Class Members to settle the Action on the terms summarized in this Notice. The Settlement was reached after arms-length non-collusive negotiations between the parties. In these negotiations, both sides recognized the substantial risk of the Court deciding against them at trial and determined that the Settlement was a fair, reasonable and adequate way to resolve the disputed claims.

Plaintiff and Class Counsel support this Settlement, finding it fair, adequate, reasonable, and in the best interests of the Class Members. Among the reasons for support are the defenses to liability potentially available to Defendant, the inherent risk of trial on the merits, the potential for the Court to deny certification of the class, and the delays and uncertainties associated with litigation.

The Court granted preliminary approval of the Settlement on ~~<INSERT PRELIMINARY APPROVAL DATE>~~. At that time, the Court also preliminarily approved the Plaintiff to serve as the Class Representative, and Norman B. Blumenthal, Kyle R. Nordrehaug, Aparajit Bhowmik, Nicholas J. De Blouw, Jeffrey S. Herman, Sergio J. Puche of Blumenthal Nordrehaug Bhowmik De Blouw LLP to serve as Class Counsel.

July 26, 2023 by Order entered August 14, 2023.

### 3. What are the terms of the Settlement?

Gross Settlement Amount. Defendant has agreed to pay a total of Nine Hundred Thousand Dollars (\$900,000) (the "Gross Settlement Amount") with no reversion to Defendant. The Gross Settlement Amount includes the Individual Class Payments, Individual PAGA Payments, a payment to the Labor and Workforce Development Agency ("LWDA") for its share of the PAGA Settlement Amount, Class Counsel Fees, Class Counsel Expenses, Class Representative Service Payment, and the Administrator's Expenses. Any employer-side payroll taxes on the portion of the Individual Class Settlement Payments allocated to wages shall be separately paid by Defendant.

Administrator. The Court has appointed a neutral company, Apex (the "Administrator") to send this Notice, calculate and make payments, and process Class Members' Requests for Exclusion. The Administrator will also decide Class Member challenges over Workweeks, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator's contact information is contained in Section 9 of this Notice. Within thirty (30) days of the order granting final approval, Defendant will fund the Gross Settlement Amount by depositing the money with the Administrator. Fourteen (14) days after the Effective Date, the Administrator will mail checks for the Individual Class Payments to Participating Class Members and Individual PAGA Payments to Aggrieved Employees. The "Effective Date" means the date the Judgment is final and is no longer subject to appeal.

~~The Court has approved \_\_\_\_\_ to act as the "Administrator."~~

Amounts to be Paid From the Gross Settlement Amount. The Settlement provides for certain payments to be made from the Gross Settlement Amount as follows, which will be subject to final Court approval, and which will be deducted from the Gross Settlement Amount before Individual Class Payments are made to Class Members who do not request exclusion ("Participating Class Members"):

- Administration Expenses Payment. Payment to the Administrator, estimated not to exceed \$25,000, for expenses, including, without limitation, expenses of notifying the Class Members of the Settlement, processing opt outs, and distributing Individual Class Payments and tax forms, and handling inquiries and uncashed checks.
- Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment. Payment to Class Counsel of reasonable attorneys' fees of not more than one-third (1/3) of the Gross Settlement Amount, which is currently estimated to be \$300,000, and an additional amount to reimburse actual litigation costs incurred by Class Counsel, not to exceed \$20,000. Class Counsel has been prosecuting the Action on behalf of Plaintiff and the Class Members on a contingency fee basis (that is, without being paid any money) and has been paying all litigation costs and expenses. Accordingly, Class Counsel will request up to these amounts to be paid from the Gross Settlement Amount, subject to the Court's final approval.
- Class Representative Service Payment. Class Representative Service Payment in an amount not to exceed Ten Thousand Dollars (\$10,000.00) to Plaintiff, or such lesser amount as may be approved by the Court, to compensate him for services on behalf of the Class in initiating and prosecuting the Action, and for the risks he undertook. Plaintiff will request this Class Representative Service Payment, but the amount he will ultimately receive is subject to the Court's final approval.
- PAGA Penalties. A payment of \$20,000 relating to Plaintiff's claim under PAGA, 75% of which (\$15,000) will be allocated to the LWDA as the LDWA's share of the settlement of civil penalties paid under the settlement and 25 % (\$5,000) will be distributed to the Aggrieved Employees on a pro rata basis based on their pay periods worked during the PAGA period. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$5,000) by the total number of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment. "PAGA Pay Period" means any Pay Period (Sunday-Saturday) during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period, which is June 16, 2021, through July 26, 2023.
- Calculation of Payments to Class Members. After all of the court-approved deductions for Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment are deducted from the Gross Settlement Amount, the remaining portion, called the "Net Settlement Amount," shall be

distributed to Class Members who do not opt out of the settlement (“Participating Class Members”) as Individual Class Payments. The Net Settlement Amount is estimated to be at least \$, based upon the above proposed deductions. The Administrator will pay an Individual Class Payment from the Net Settlement Amount to each Participating Class Member. An Individual Class Payment is calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member’s Workweeks. A “Workweek” means any week (Sunday-Saturday) during the Class Period in which a Class Member worked for Defendant as a Class Member for at least one day, but excluding any weeks worked up until November 21, 2020, by individuals who worked for Defendant in California and are class members in *Lauralynne Cristobal and Meisha Henry v. See’s Candy, Inc.*, Superior Court of the State of California, County of Los Angeles, Case No. 19STCV07389. Workweeks shall be based upon Defendant’s payroll records, but Class Members will have the right to challenge the number of Workweeks as explained below.

**If the Settlement is approved by the Court and you do not exclude yourself by completing a signed Request for Exclusion, you will automatically be mailed a check for your Individual Class Payment along with your Individual PAGA Payment (if any) to the same address as this Class Notice. You do not have to do anything to receive a payment. If your address has changed, you must contact the Administrator to inform them of your correct address to ensure you receive your payment.**

Tax Matters. The administrator will not make tax withholdings on the Individual PAGA Payments. 20% of each Participating Class Member’s Individual Class Payment will be allocated to settlement of wage claims (the “Wage Portion”). The Wage Portion is subject to tax withholding and will be reported on an IRS Form W-2. 80% of each Participating Class Member’s Individual Class Payment will be allocated to settlement of alleged claims for non-wages, expense reimbursement, interest and penalties (the “Non-Wage Portion”). The Non-Wage Portions along with the Individual PAGA Payments are not subject to wage withholdings and will be reported on IRS Form 1099. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment and their Individual PAGA Payment. Neither Class Counsel nor Defendant’s Counsel intend anything contained in this Notice to constitute advice regarding taxes or taxability. The tax issues for each Participating Class Member are unique, and you may wish to consult a tax advisor concerning the tax consequences of the payments received under the Settlement.

Conditions of Settlement. This Settlement is conditioned upon the Court entering an order granting final approval of the Settlement and entering the Judgment.

The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline to enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiff and Defendant have agreed that, in either case, the Settlement will be void: Defendant will not pay any money and Class Members will not release any claims against Defendant.

Need to Promptly Cash Payment Checks. The front of every check issued will show the date when the check expires (the void date). If you do not cash it by the void date, your check will be automatically cancelled, and the funds represented by such checks remitted to the

California Controller's Unclaimed Property Fund in your name.

Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator of your desire to opt out (see Section 7 for more information). Excluded Class Members (i.e., Non-Participating Class Members) will not receive Individual Class Payments but will preserve their rights to personally pursue wage and hour claims against the Defendant.

#### **4. What Do I Release Under the Settlement?**

Released Class Claims. Effective on the date when Defendant fully funds the Settlement, all Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from the Released Class Claims. The "Released Class Claims" are all claims that were alleged, or reasonably could have been alleged, based on facts stated in the Operative Complaint, known or unknown, for any type of relief against the Released Parties that occurred during the Class Period, including claims for: (i) meal and rest break violations or premium payments in lieu thereof; (ii) failure to pay earned wages for all hours worked, including minimum wages or overtime wages; (iii) failure to pay wages timely during employment and upon termination; (iv) failure to pay sick time; (v) failure to reimburse employees for required expenses; (vi) failure to furnish accurate wage statements; (vii) unfair business practices relating to or arising out of any of the foregoing; and (viii) to the extent not covered above, any and all claims reasonably arising out of the Operative Complaint or Plaintiff's PAGA Notice. Except as expressly set forth in this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, and/or claims based on facts occurring outside the Class Period.

The "Released Parties" are Defendant, and each of its parents and affiliates (including without limitation Berkshire Hathaway, Inc. and See's Candy Shops, Inc.), subsidiaries, predecessors, successors, divisions, joint ventures, attorneys and assigns, and each of their former and present owners, directors, officers, employees, managers, partners, members, principals, agents, insurers, co-insurers, re-insurers, investors, shareholders, employee benefit plans, employee benefit plan trustees, fiduciaries, and administrators, and personal or legal representatives.

Released PAGA Claims. Effective on the date when Defendant fully funds the Settlement, Aggrieved Employees and the LWDA are deemed to release the Released Parties from the Released PAGA Claims on behalf of themselves, their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, and the State of California. "Released PAGA Claims" are all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint and the PAGA Notice that occurred during the PAGA Period. The Released PAGA Claims do not include claims for vested benefits, wrongful termination, discrimination, unemployment insurance, disability, social security, worker's compensation, and/or claims outside of the PAGA Period. The release of the Released PAGA Claims shall be effective as to all Aggrieved Employees, regardless of whether an Aggrieved Employee submitted a request for an exclusion from the Class.

**5. How much will my payment be?**

Defendant's records reflect that you worked << \_\_\_ >> Workweeks for Defendant as Class Member during the Class Period. ~~The Class Period is June 16, 2018, to 2023.~~

*November 22, 2020 through July 26, 2023.*

Based on this information, your estimated Individual Class Payment is << \_\_\_ >>.

Defendant's records reflect that you worked << \_\_\_ >> PAGA Pay Periods during the PAGA Period (June 16, 2023, through July 26, 2023). Based on this information your estimated Individual PAGA Payment is << \_\_\_ >>.

If you wish to challenge the Workweek information set forth above, then you must submit a written, signed dispute challenging the information, along with any supporting documents, to the Settlement Administrator at the address provided in this Class Notice no later than \_\_\_\_\_ [the Response Deadline].

**6. How can I get a payment?**

To get money from the Settlement, you do not have to do anything. A check for your Individual Class Payment along with your Individual PAGA Payment will be mailed automatically to the same address as this Class Notice. If your address is incorrect or has changed, or if it changes prior to the time you receive your payment, you must notify the Administrator. It is your responsibility to ensure that the Administrator has your current address on file, or you may not receive important information or a settlement payment. The Administrator is: \_\_\_\_\_ (800) \_\_\_\_\_.

The Court will hold a Final Approval Hearing on November 28, 2023 at 2:00 p.m. to decide whether to approve the Settlement. If the Court approves the Settlement and there are no objections or appeals, payments will be mailed approximately 90 days after the hearing. If there are objections or appeals, resolving them can take time, usually more than a year. Please be patient.

**7. What if I don't want to be a part of the Settlement?**

If you do not wish to participate in the Settlement, you may exclude yourself from the Settlement or "opt out." **If you opt out, you will not receive an Individual Class Payment from the Settlement, and you will not be bound by the Class portion of the Settlement which means you will retain the right to sue Defendant for the Released Class Claims.** However, Class Members who opt out will still be paid their Individual PAGA Payment and will remain subject to the release of the Released PAGA Claims regardless of whether they submit a request for exclusion.

To opt out, you must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than \_\_\_\_\_ [Response Deadline]. A Request for Exclusion is a letter from a Class Member or the Class Member's representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name and address. The Request for Exclusion must state the name and number of the

case, which is *Ochoa-Andrade v. See's Candies, Inc.*, Case No. 22-CIV-02481. The Request for Exclusion must be signed by you. No other person may opt out for a living member of the Class. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.

The address for the Administrator is \_\_\_\_\_, fax \_\_\_\_\_, email \_\_\_\_\_.

By filing a timely Request for Exclusion, you will no longer be a Class Member, and will receive no benefits from the Settlement. Any Request for Exclusion Request for Exclusion that is not postmarked by \_\_\_\_\_ [Response Deadline], or is incomplete or unsigned, will be rejected, and those Class Members will remain bound by the Settlement and the release described above.

**8. How do I tell the Court that I don't agree with the Settlement?**

Any Class Member who has not opted out and believes that the Settlement should not be finally approved by the Court for any reason may object to the proposed Settlement, the attorneys' fees, the costs, and/or the service award, either in writing or in person. Objections that are in writing must state (a) the case name and number (*Ochoa-Andrade v. See's Candies, Inc.*, in the Superior Court of the State of California, County of San Mateo, Case No. 22-CIV-02481); (b) the objecting person's or his/her/their attorney's full name, address, and telephone number; (c) the words "Notice of Objection" or "Formal Objection"; (d) describe, in clear and concise terms, the legal and factual arguments supporting the objection; (e) list identifying witness(es) the objector may call to testify at the Final Approval Hearing; and (f) provide true and correct copies of any exhibit(s) the objector intends to offer at the Final Approval Hearing, if any.

All written objections must be sent to the Administrator by fax, email, or mail at \_\_\_\_\_ postmarked no later than \_\_\_\_\_ [Response Deadline]. Any Class Member who does not request exclusion may, if the member so desires, enter an appearance through his/her/their own counsel

Class Members may appear at the Final Approval Hearing on November 28, 2023 at 2:00 p.m. to make an oral objection. Remote appearances at the hearing are allowed. To appear at the hearing, you may appear at the hearing and be heard either in person or using the Court's remote Zoom appearance platform at [https://www.sanmateocourt.org/court\\_divisions/civil/dept2.php](https://www.sanmateocourt.org/court_divisions/civil/dept2.php). You may contact Class Counsel if you need assistance to appear at the hearing or have questions.

To object to the Settlement, you must not opt out, and if the Court approves the Settlement despite your objection, you will be bound by the terms of the Settlement in the same way as Class Members who do not object and you will still be mailed a check for your Individual Class Payment. Any Class Member who does not object in the manner provided in this Notice shall have waived any objection to the Settlement, whether by appeal or otherwise.

**9. When and where will the Court decide whether to approve the Settlement?**

The Court will hold a Final Approval Hearing at November 28, 2023 on at 2:00 p.m., at the San Mateo County Superior Court, located at 400 County Center, Redwood City, CA 94063, in

at Court room 2E, Dept. 2,

Department 2 and Courtroom 2E before Judge Marie S. Weiner. At this hearing the Court will consider whether the Settlement is fair, reasonable, and adequate. The purpose of this hearing is for the Court to determine whether to grant final approval to the Settlement. If there are objections, the Court will consider them. This hearing may be rescheduled by the Court without further notice to you. **You are not required to attend** the Final Approval Hearing, although any Class Member is welcome to attend the hearing remotely. Check the Court's website for the most current information concerning appearances and procedures at the Court at [https://www.sanmateocourt.org/court\\_divisions/civil/](https://www.sanmateocourt.org/court_divisions/civil/).

**10. How do I get more information about the Settlement?**

You may call the Administrator at \_\_\_\_\_ or write to *Ochoa-Andrade v. See's Candies, Inc.* Administrator, c/o \_\_\_\_\_. You may receive a copy of the Settlement Agreement, the Judgment, the motion for attorneys' fees, costs and service award, the motion for final approval, or other Settlement documents by visiting the Administrator's website at \_\_\_\_\_ for *Ochoa-Andrade v. See's Candies, Inc.* You may also contact Class Counsel directly. The contact information for Class Counsel and Counsel for Defendant is as follows:

**Class Counsel:**

Norman Blumenthal  
Kyle Nordrehaug  
Blumenthal Nordrehaug Bhowmik De Blouw LLP  
2255 Calle Clara  
La Jolla, CA 92037  
Tel: 858-551-1223 / Fax: 858-551-1232  
Email: [kyle@bamlawca.com](mailto:kyle@bamlawca.com)  
Website: [www.bamlawca.com](http://www.bamlawca.com)

**Counsel for Defendant:**

Malcolm A. Heinicke (SBN 194174)  
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Twenty-Seventh Floor  
San Francisco, California 94105-2907  
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Katherine M. Forster (SBN 217609)  
Abraham B. Dyk (SBN 325499)  
Erica C. Tooch (SBN 333077)  
~~Munger, Tolles & Olson LLP~~  
350 South Grand Avenue  
Fiftieth Floor  
Los Angeles, California 90071-3426  
Telephone: (213) 683-9100  
Facsimile: (213) 687-3702

This Class Notice summarizes the proposed settlement. More details are in the Settlement Agreement. You may also get more details by examining the Court's file on the Internet via the website for the California Superior Court for the County of San Mateo (<https://odyportal-ext.sanmateocourt.org/portal-external>) and entering the Case No. 22-CIV-02481.

**PLEASE DO NOT CALL THE COURT ABOUT THIS NOTICE.**

**IMPORTANT:**

- **What if Your Address Changes** - To receive your check, you should immediately notify the Administrator if you move or otherwise change your mailing address.
- **What if You Fail to Cash a Check** - Settlement checks will be null and void 180 days after issuance if not deposited or cashed, and this expiration date is printed on the check. In such events, the Administrator shall direct all unclaimed funds to be paid to the California Controller's Unclaimed Property Fund in the name of and for the benefit of the individual who did not cash the check. The funds may be claimed at [https://www.sco.ca.gov/upd\\_msg.html](https://www.sco.ca.gov/upd_msg.html).
- **What if You Lose Your Check** - If your check is lost or misplaced, you should contact the Administrator immediately to request a replacement.





**SUPERIOR COURT OF SAN MATEO COUNTY**

400 County Center 800 North Humboldt Street  
Redwood City, CA 94063 San Mateo, CA 94401  
(650) 261-5100  
www.sanmateocourt.org

**(ENDORSED)  
FILED**

**SAN MATEO COUNTY**

8/14/2023

**Clerk of the Superior Court**

/s/ Andrea Daley

DEPUTY CLERK

**CLERK'S CERTIFICATE OF SERVICE BY MAIL**

Date: 8/14/2023  
In the Matter of: ADRIAN OCHOA-ANDRADE vs. SEE'S CANDIES, INC., et al  
Case No.: 22-CIV-02481  
Documents: PRELIMINARY APPROVAL ORDER

I certify that I am a Deputy Clerk of the San Mateo County Superior Court, that I am not a party to this cause, and that the above-listed documents were served upon the persons whose names and addresses are set forth below, on this date in San Mateo County, California, by placing the documents for collection and mailing so as to cause it to be mailed with the United States Postal Service by first class mail in a sealed addressed envelope with postage fully prepaid, following standard court practices. I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on: 8/14/2023

Neal I Taniguchi, Court Executive Officer/Clerk

By: /s/ Andrea Daley

Andrea Daley, Deputy Clerk

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