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Robert Westfall, David E. Anderson, Lynn Bobby, and David Ellinger,
11 individually and on behalf of all others similarly situated

12
13 **UNITED STATES DISTRICT COURT**
14 **EASTERN DISTRICT OF CALIFORNIA, SACRAMENTO DIVISION**

15
16 ROBERT WESTFALL; DAVID ANDERSON;
17 LYNN BOBBY; DAVID ELLINGER,
individually and on behalf of all others
18 similarly situated,

19 Plaintiff,

20 v.

21 BALL METAL BEVERAGE CONTAINER
CORPORATION, a Colorado Corporation, Does
22 1-20 inclusive,

23 Defendants.

Case No. 2:16-CV-02632-DAD-CKD

CLASS ACTION

**PLAINTIFFS' NOTICE AND MOTION
FOR PRELIMINARY APPROVAL OF
CLASS AND PAGA SETTLEMENT**

Date: March 3, 2025

Time: 1:30

Ctrm: 4, 15th Floor

Judge: Hon. Dale A. Drozd

[Originally Solano Superior Court
Action No. FCS047654]

State Action Filed: 9-7-2016

FAC Filed: 4-6-2017

SAC Filed: 5-30-2024

Trial Date: None Set

TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that on March 3, 2025, at 1:30 p.m., or as soon thereafter as the matter may be heard in Courtroom 4 of the above-entitled Court, Plaintiffs Robert Westfall, David E. Anderson, Lynn Bobby, and David Ellinger, individually and on behalf of all similarly situated individuals, will, and hereby do, move for entry of an Order for the following:

1. Preliminarily and conditionally approving the payment of a class representative enhancement award of \$10,000.00 each to Plaintiffs Robert Westfall, David E. Anderson, Lynn Bobby, and David Ellinger;
2. Preliminarily and conditionally approving the payment of an objector enhancement award of \$10,000.00 each to Objectors Richard Martin and Andre Bernstein;
3. Preliminarily appointing the firms of Castle Law: California Employment Counsel, PC, Eason & Tamborini, ALC, Leches Law, and Blady Workforce Law Group LLP as class counsel for purposes of settlement;
4. Preliminarily and conditionally approving the proposed class action settlement, which is incorporated herein by reference;
5. Preliminarily and conditionally approving the application for payment to class counsel of reasonable costs in an amount not to exceed \$45,000;
6. Preliminarily and conditionally approving the appointment of ILYM as the class action settlement administrator and for payment to ILYM for administering said class action settlement in an amount not to exceed \$10,000;
7. Preliminarily and conditionally approving the application for payment to class counsel of reasonable attorneys' fees in the amount of \$1,500,000.00 (33.33% of Settlement Amount);
8. Approving as to form and content the proposed Notice of Proposed Class Action Settlement and Hearing Date For Court Approval of Settlement ("Class Notice"), which provides the settlement class information regarding the settlement, their ability to participate, opt out of, or object to, the class action settlement and which provides instruction on how to dispute an individual's settlement allocation under the proposed settlement agreement;

- 1 9. Approving the proposed procedures to notify the class and determining that the
2 proposed notification procedures and process complies with class members' due process
3 rights and directing the Class Notice to be mailed by first class mail to the settlement
4 class members;
- 5 10. Directing Defendant to report employment information, including social security
6 numbers, to the claims administrator to administer the settlement proceeds;
- 7 11. Scheduling a fairness hearing on the question of whether the proposed settlement should
8 be finally approved as fair, reasonable, and adequate as to the members of the
9 settlement class;
- 10 12. Directing that any residue from settlement checks that were not cashed within 180 days
11 of issuance be paid in accordance with Civil Procedure Code section 384(b) with the
12 identified *cy pres* beneficiary being agreed to by the parties, if the Court does not
13 approve the *cy pres* recipients, said residue shall be paid to the California State
14 Controller Unclaimed Property Division in the name of the Class Member; and
- 15 13. Preliminarily and conditionally approving and adopting the Proposed Order and its
16 implementation schedule, which is filed herewith and incorporated by reference.

17 This motion is being made pursuant to Federal Rule of Civil Procedure 23(e) and Labor
18 Code section 2699(1) on the grounds that the proposed class action and Private Attorneys General
19 Act settlement is fair, reasonable, and adequate as to all class members and should be approved by
20 the Court. This motion will be based on the notice of motion, memorandum of points and
21 authorities, the Declaration of Matthew Eason, the Declaration of Timothy B. Del Castillo, the
22 Declaration of Levi Lesches, Declaration of I. Benjamin J. Blady, exhibits, the record and files of
23 this case, and any further oral or documentary evidence introduced at the hearing of this motion.

24 Dated: January 21, 2025

Castle Law: California Employment Counsel, PC

25
26 By: _____


Timothy B. Del Castillo

Bryce Q. Fick

Attorneys for Plaintiffs ROBERT WESTFALL,
DAVID E. ANDERSON, LYNN BOBBY, and
DAVID ELLINGER and the Class