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BALL METAL BEVERAGE CONTAINER CORP.

11
12 UNITED STATES DISTRICT COURT
13 EASTERN DISTRICT OF CALIFORNIA
14

15 ROBERT WESTFALL, DAVID E.
ANDERSON, LYNN BOBBY, and DAVID
16 ELLINGER,

17 Plaintiffs,

18 v.

19 BALL METAL BEVERAGE CONTAINER
CORP.,
20

21 Defendant.
22

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

**JOINT STIPULATION TO DELAY
ISSUANCE OF AN ORDER GRANTING
FINAL APPROVAL OF CLASS ACTION
AND PAGA SETTLEMENT, OR,
ALTERNATIVELY, TO CONTINUE THE
FINAL APPROVAL HEARING DATE**

1 Plaintiffs Robert Westfall, David E. Anderson, Lynn Bobby, and David Ellinger
2 (“Plaintiffs”); Defendant Ball Metal Beverage Container Corp. (“Ball”); and Objectors Richard
3 Martin and Andre Bernstein (“Objectors”) (collectively referred to as the “Parties”); by and
4 through their respective counsel of record, submit the following joint stipulation:

5 1. This is a Class Action and PAGA lawsuit. On September 26, 2025, this Court
6 issued an Order granting Preliminary Approval of Class Action and PAGA Settlement. This
7 Court set the hearing on Plaintiffs’ Motion for Final Approval of Class Action and PAGA
8 Settlement for May 4, 2026 at 1:30 p.m.

9 2. Defendant, pursuant to 28 U.S.C. § 1715(b), was required to provide notice to the
10 of the pending Class Action and PAGA Settlement to the California CAFA Coordinator, Office
11 of the Attorney General, and to the Office of the Attorney General of the United States of
12 America. Due to oversight, Defendant inadvertently failed to provide the requisite notice.

13 3. Pursuant to 28 U.S.C. § 1715 (d), the order giving final approval of a proposed
14 settlement may not be issued earlier than 90 days after the later of the dates on which the
15 appropriate Federal official and the appropriate State official are served with the notice required
16 under subsection (b). Conversely, no provision of § 1715 requires any particular period of time
17 prior to the filing of a motion for final approval, nor any particular period of time prior to the
18 hearing on any such motion.

19 4. Given the potential prejudice to Defendant that arises out of the failure to provide
20 the notice as required by 28 U.S.C. § 1715(e), the Parties have agreed and stipulated as follows:

- 21 a. The Parties request that the Court either: (1) defer the issuance of a final order
22 on Plaintiffs’ Motion for Final Approval of Class Action and PAGA
23 Settlement to 125 days from the submission of this Joint Stipulation to allow
24 the requisite notices to the California and United States Attorneys General
25 (i.e., until on or after August 3, 2026); or, alternatively, (2) continue the
26 hearing date on Plaintiffs’ Motion for Final Approval of Class Action
27 Settlement in a manner reasonably calculated to provide for an the issuance of
28 order on August 3, 2026, or shortly thereafter.

1 b. The Parties request that the Court issue an order providing that any approval
2 order issued on or before August 2, 2026 shall be deemed automatically
3 withdrawn and inoperative for purposes of 28 U.S.C. § 1715(d).

4 5. To avoid any potential prejudice to the Class Members, Defendant stipulates to
5 modify section 1 – 25(i)(2) of the Joint Stipulation of Class Action and Paga Settlement to read:

6 Final Approval has become Final. For purposes of this provision, “Final”
7 means:

8 (1) if no Class Member Objections are made and/or are made and withdrawn,
9 or if the Court enters findings that all asserted objection(s) are frivolous and/or
10 patently devoid of merit, the date the Court enters its order granting Final
11 Approval of the settlement and Judgment pursuant to Fed. R. Civ P. 23 (e);

12 (2) if any Class Member Objections, other than frivolous/meritless objections,
13 are made and not withdrawn, if no appeal, review or writ is sought from the
14 Judgment, the sixty- first (61st) day after entry of Judgment;

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16 (4) if a Class Member Objector appeals from any ruling by the Court overruling
17 such objection (other than a frivolous or patently meritless objection) in whole
18 or in part, the date when the Court’s order of Final Approval and Judgment
19 have been affirmed on appeal;

20 6. Defendant intends to promptly issue the appropriate CAFA Notices to the
21 California and United States Attorneys General as required by 28 U.S.C. 1715 following this
22 Court’s issuance of the accompanying Proposed order.

23 7. The Parties recognize that this requested brief continuance will not prejudice the
24 rights of the putative Class or the Parties to this Stipulation. Plaintiffs and Objectors agree that
25 the short delay is adequately compensated by Defendants’ stipulation to modify the Settlement.
26 Because the above modification protects the Class Members against risks of further delays,
27 (including risks of unwarranted extensive delays), the small delays contemplated herein are
28 adequately offset through the additional protections afforded to guard against any further delays.

 8. This is the Parties’ first request for the relief sought by this Stipulation.

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