

Todd M. Friedman (SBN 216752)
Adrian R. Bacon (SBN 280332)
Meghan E. George (SBN 274525)
Thomas E. Wheeler (SBN 308789)
LAW OFFICES OF TODD M. FRIEDMAN, P.C.
21031 Ventura Blvd, Suite 340
Woodland Hills, CA 91364
Phone: 323-306-4234
Fax: 866-633-0228
tfriedman@toddfllaw.com
abacon@toddfllaw.com
mgeorge@toddfllaw.com
twheeler@toddfllaw.com
Attorneys for Plaintiff
FATIMA ALMAZAN on behalf of ANALI ALMAZAN

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE**

FATIMA ALMAZAN on behalf of decedent	)	Case No.: 30-2020-01122459-CU-OE-CXC
ANALI ALMAZAN, individually and on	)	
behalf of all others similarly situated,	)	
	)	
Plaintiff,	)	[PROPOSED] ORDER GRANTING
	)	PLAINTIFF'S MOTION FOR
	)	PRELIMINARY APPROVAL OF CLASS
	)	ACTION SETTLEMENT
v.	)	
	)	
BOTANX, LLC, and DOES 1 to 50, inclusive,	)	Date: February 17, 2023
	)	Time: 1:30 p.m.
	)	Dept.: C20
Defendants.	)	
	)	RESERVATION #: 1000354628
	)	
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1 TO ALL PARTIES AND THEIR RESPECTIVE COUNSEL:

2 The Motion for Preliminary Approval of Class Action Settlement came before this
3 Court, on December 14, 2022 at 1:30 p.m.. The Court having considered the papers submitted in
4 support of the Motion, HEREBY ORDERS THE FOLLOWING:

5 1. Capitalized terms shall have the definitions set forth in the Joint Stipulation and
6 Settlement Agreement (the “Settlement”) entered into between the Parties.

7 2. The following Class is conditionally certified for purposes of settlement only:
8 “all individuals who were employed by Defendant as a non-exempt employee in California
9 during the Class Period.” The Class Period is defined as “January 8, 2016 through September
10 21, 2022.”

11 3. The Settlement Class shall consist of all Class Members who do not timely
12 exclude themselves (“opt out”) from the Settlement Class by mailing a timely Request for
13 Exclusion (or “Opt Out”) in accordance with the requirements set forth in the Class Notice and
14 Settlement.

15 4. The Court grants preliminary approval of the Settlement based upon the terms set
16 forth in the Settlement filed herewith, and finds that the Class and the Settlement Class meet the
17 requirements for conditional certification for settlement purposes only under California Code of
18 Civil Procedure section 382.

19 5. The Settlement appears to be fair, adequate and reasonable to the Class and the
20 Settlement Class. The Settlement falls within the range of reasonableness and appears to be
21 presumptively valid, subject only to any objections that may be raised in connection with the
22 Final Approval Hearing.

23 6. Plaintiff Fatima Almazan, on behalf of decedent Anali Almazan, is conditionally
24 approved as the class representative for the Settlement Class.

25 7. The Incentive Award of \$10,000.00 payable to Plaintiff for her services as the
class representative is conditionally approved.

8. Plaintiffs’ Counsel Adrian R. Bacon, Todd M. Friedman, and Thomas E.

1 Wheeler of the Law Offices of Todd M. Friedman are conditionally approved as Class Counsel
2 for the Settlement Class.

3 9. The Fee and Expense Award of up to \$83,333.33 in attorneys' fees and up to
4 \$10,000.00 in actual litigation costs payable to Plaintiff's Counsel is conditionally approved.

5 10. A Final Approval Hearing on the question of whether the Settlement, attorneys'
6 fees and costs to Class Counsel, and Incentive Awards to Plaintiff should be given Final
7 Approval as fair, reasonable and adequate as to Settlement Class Members is scheduled in
8 Department C20 on the date and time set forth in Paragraph 22g below.

9 11. The Court hereby appoints Rust Consulting as the Settlement Administrator.

10 12. The estimated Administration Costs of up to \$10,000.00 to Rust for its services
11 as the Settlement Administrator are hereby conditionally approved.

12 13. The PAGA Award of \$10,000 (75% of \$7,500, with the remaining 25% allocated
13 to Class Members) is conditionally approved.

14 14. The Court approves, as to form and content, the Class Notice in substantially the
15 form attached to the Declaration of Adrian Bacon submitted in conjunction with the Motion,
16 with modifications as set forth in the Court's tentative ruling. The Court approves the
17 procedures for Class Members to participate in, to request exclusion from, and to object to the
18 Settlement as set forth in the Class Notice.

19 15. The Court directs the mailing of the Class Notice by first class mail to all Class
20 Members in accordance with the Implementation Schedule set forth in Paragraph 21 below.
21 The Court finds the dates selected for the mailing and distribution of the Class Notice, as set
22 forth in the Implementation Schedule, meet the requirements of due process and provide the
23 best notice practicable under the circumstances and shall constitute due and sufficient notice to
24 all persons entitled thereto.

25 16. Any Class Member may choose to opt-out of and be excluded from the Class, as
provided in the Notice, by following the instructions for requesting exclusion from the Class
that are set forth in the Notice. All requests for exclusion must be submitted as provided in the

1 Notice. Any such person who chooses to opt-out of and be excluded from the Class will not be
2 entitled to any recovery under the Settlement and will not be bound by the Settlement or have
3 any right to object, appeal, or comment thereon. Any written request to opt-out must be signed
4 by each such person opting out. Class Members who have not requested exclusion shall be
5 bound by all determinations of the Court, the Settlement, and Judgment.

6 17. Any Class Member may appear at the Final Approval Hearing and may object or
7 express the Class Member's views regarding the Settlement and may present evidence and file
8 briefs or other papers, that may be proper and relevant to the issues to be heard and determined
9 by the Court as provided in the Notice. Additionally, Class Members may submit a written
10 objection as set forth in the Notice.

11 18. The Settlement is not a concession or admission and shall not be used against
12 Defendant or any of the Released Parties as an admission or indication with respect to any claim
13 of any fault or omission by Defendant, or any of the Released Parties. Whether or not the
14 Settlement is finally approved, neither the Settlement, nor any document, statement, proceeding,
15 or conduct related to the Settlement, nor any reports or accounts thereof, shall in any event be:

- 16 a. Construed as, offered or admitted in evidence as, received as or deemed to be
17 evidence for any purpose adverse to the Released Parties, including, but not
18 limited to, evidence of a presumption, concession, indication, or admission by
19 Defendant or any of the Released Parties of any liability, fault, wrongdoing,
20 omission, concession, or damage; or
21 b. Disclosed, referred to, or offered or received in evidence against any of the
22 Released Parties in any further proceeding in the Action, or in any other civil,
23 criminal, or administrative action or proceeding, except for purposes of settling
24 the Action pursuant to the Settlement.

25 19. In the event the Settlement does not become effective in accordance with the
terms of the Settlement, or the Settlement is not finally approved, or is terminated, canceled or
fails to become effective for any reason, this Order shall be rendered null and void and shall be

1 vacated, and the Parties shall revert to their respective positions as of before entering into the
2 Stipulation.

3 20. The Court orders the following **Implementation Schedule** for further
4 proceedings:

- 5 a. Deadline for Defendant to submit
6 Class Member Data to Settlement
7 Administrator (within 20 days
8 after the Court Granting
Preliminary Approval): March 9, 2023
- 9 b. Deadline for Settlement
10 Administrator to Mail the Class
11 Notice to Class Members (within
12 10 days of receipt of the Class
13 Information from Defendant): March 20, 2023
- 14 c. Dispute Deadline (45 days from
15 the date the Class Notice is first
16 mailed): May 4, 2023
- 17 d. Objection/Exclusion Deadline (45
18 days from the date the Class
19 Notice if first mailed): May 4, 2023
- 20 e. Deadline for Class Counsel to file
21 Motion for Final Approval of
22 Class Action Settlement: May 12, 2023
- 23 f. Deadline for Class Counsel to file
24 Motion for Attorneys' Fees, Costs
25 and Incentive Award: April 21, 2023
- g. Deadline for Settlement
Administrator to Submit
Declaration Detailing Claims/Opt
Outs/Objections (within 15 days
following the Opt-Out Period): May 19, 2023
- h. Deadline to Submit Any
Responses to Objections and/or
Reply Brief: May 19, 2023

1 g. Final Approval Hearing Date: June 2, 2023 at 1:30 p.m.
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4 **IT IS SO ORDERED.**
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6 Dated: _____, 2023

7 BY _____
8 Honorable Lon Hurwitz
9 Judge of the Superior Court of the State of
10 California County of Orange
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