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10 Attorneys for Plaintiff ROSALINDA MARCHBANKS-POWELL,
on behalf of herself and others similarly situated
11

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **FOR THE COUNTY OF SAN DIEGO**

14 ROSALINDA MARCHBANKS-POWELL,
15 an individual on behalf of herself and all
others similarly situated,

16 Plaintiff,

17 vs.
18

19 TORRID ADMINISTRATION, INC., a
California corporation; TORRID
20 MERCHANDISING, INC., a California
corporation; TORRID PARENT, INC., a
Delaware corporation; TORRID LLC, a
21 California limited liability company; HOT
TOPIC ADMINISTRATION, INC., a
22 California corporation; HOT TOPIC
MERCHANDISING, INC., a California
23 corporation; HOT TOPIC TENNESSEE,
INC., a California corporation; HOT TOPIC,
24 INC., a California corporation; and DOES 1
through 50, inclusive,

25 Defendants.
26

Case No.: 37-2020-00008179-CU-OE-NC

Assigned For All Purposes to
The Honorable Timothy M. Casserly

**PLAINTIFF'S NOTICE OF MOTION AND
MOTION FOR AN ORDER (1)
PRELIMINARILY APPROVING THE
CLASS ACTION SETTLEMENT; (2)
APPROVING NOTICE OF CLASS
ACTION SETTLEMENT; AND (3)
SETTING HEARING FOR FINAL
APPROVAL**

*[Filed concurrently with Plaintiff's
Memorandum of Points and Authorities;
Declaration of David Yeremian; Declaration of
Emil Davtyan; and [Proposed] Order]*

Date: July 2, 2021
Time: 1:30 p.m.
Dept: N-31

1 **TO THE COURT AND DEFENDANT AND THEIR ATTORNEYS OF RECORD:**

2 PLEASE TAKE NOTICE that on July 2, 2021 at 1:30 p.m. or as soon thereafter as this
3 matter may be heard, at Department N-31, located at 325 South Melrose Drive, Vista, California
4 92081, Plaintiff Rosalinda Marchbanks-Powell (“Plaintiff”), on behalf of herself and all persons
5 similarly situated, will and hereby move this Court pursuant to California Code of Civil
6 Procedure § 382 and California Rule of Court 3.769 for an order:

- 7 (1) Preliminarily approving the class action settlement reached between Plaintiff and
8 Defendant Torrid LLC (“Defendant”), including granting preliminary approval of the
9 following class: “All non-exempt employees who worked for Torrid LLC at any of its
10 retail store locations in the State of California at any time from February 11, 2016
11 through December 31, 2020”
12 (2) Approving the form of Notice of Class Action Settlement and procedure for notice to
13 the class; and
14 (3) Setting the final approval hearing.

15 Pursuant to Labor Code § 2699.3(b)(4), the Parties also seek approval of the proposed
16 settlement’s allocation of funds to claims made under the Labor Code Private Attorneys General
17 Act of 2004 (“PAGA”).

18 Pursuant to the proposed Joint Stipulation of Class Action Settlement (“Settlement” or
19 “Settlement Agreement”), filed concurrently herewith, Defendant does not oppose the
20 preliminary approval of the class action settlement.

21 Under the terms of the Settlement, the parties have agreed that all claims brought on
22 behalf of the Class Members shall be fully and finally resolved for the total sum of Seven
23 Hundred Thousand Dollars and Zero Cents (\$700,000.00) (“Gross Settlement Amount”) to be
24 paid on a non-reversionary basis. The amount remaining of the Gross Settlement Amount after
25 the following deductions have been made (“Net Settlement Amount”) shall be available for
26 distribution to Class Members who do not opt out of the settlement:

- 27 • not more than Two Hundred Thirty Three Thousand Three Hundred Thirty Three
28 Dollars and Thirty Three Cents (\$233,333.33) to Class Counsel for attorneys’ fees,

1 and not more than Seventeen Thousand Dollars and Zero Cents (\$17,000.00) in
2 reasonable litigation costs;
3 • not more than Twenty Six Thousand Dollars and Zero Cents (\$26,000.00) for the
4 Settlement Administration Costs;
5 • not more than Ten Thousand Dollars and Zero Cents (\$10,000.00) for a Class
6 Representative Enhancement Payment; and
7 • Fifty Thousand Dollars and Zero Cents (\$50,000.00) for civil penalties under the
8 PAGA, where 75% (\$37,500.00) will be paid to the LWDA and 25% (\$12,500.00)
9 will be included in the Net Settlement Amount and distributed to Settlement Class
10 Members).

11 This Notice of Motion and Motion is based on the fact that this is a fair and reasonable
12 settlement that benefits the class and was the product of informed, non-collusive negotiations by
13 the parties who were represented by experienced and able counsel. *See Dunk v. Ford Motor Co.*
14 (1996) 48 Cal. App. 4th 1794, 1802; Manual for Complex Litigation (Second) (1985)§ 30.44. The
15 proposed settlement meets the legal standard for preliminary approval and is in the best interests
16 of the class; the proposed form of notice explains the settlement terms in a clear and
17 straightforward manner; the proposed procedures for notice provide the best practical notice to
18 the class; and that Class Members will have an opportunity to participate in and/or object to the
19 settlement and/or opt-out of the settlement.

20 This Notice of Motion and Motion is based on this Notice, and the exhibits thereto
21 (including the Notice to Class Members), the accompanying Memorandum of Points and
22 Authorities, the Declaration of David Yeremian, the pleadings, records and files in the case, and
23 such other further oral and documentary evidence which may be submitted at or before the
24 hearing on this Motion.

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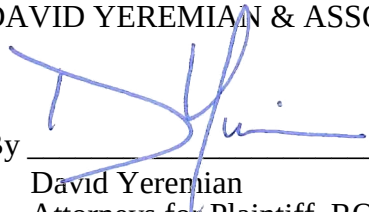
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1 Dated: March 9, 2021

Respectfully submitted,

2 DAVID YEREMIAN & ASSOCIATES, INC.

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4 By


David Yeremian

Attorneys for Plaintiff, ROSALINDA
MARCHBANKS-POWELL, on behalf of herself
and others similarly situated

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I am employed in the aforesaid county, State of California; I am over the age of 18 years and not a party to the within action; my business address is 535 N. Brand, Blvd. Suite 705, Glendale CA 91203.

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[] (COURTESY COPY BY ELECTRONIC TRANSMISSION) by use of email by scanning the documents and any and all documents and emailing them to email addresses above.

[] (BY OVERNIGHT DELIVERY) I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the address above. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

Natalia Bermudes
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