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8 NICOLE SHAVER, and all others similarly situated

9 (Additional attorneys for Plaintiff(s) on following page)

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

11 **FOR THE COUNTY OF SAN BERNARDINO**

12 **(UNLIMITED JURISDICTION)**

13 NICOLE SHAVER, on behalf of herself, all
14 others similarly situated, and the general public,
15 and as an “aggrieved employee” on behalf of
16 other “aggrieved employees” under the Labor
Code Private Attorneys General Act of 2004,

17 *Plaintiff(s),*

18 vs.

19 G AND C SWAN, INC., a California
20 corporation; and DOES 1–50, inclusive,

21 *Defendant(s).*

Case No. CIVSB2103630

**PLAINTIFF NICOLE SHAVER’S
NOTICE OF MOTION FOR
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

Hearing Date: June 17, 2024

Hearing Time: 1:30 p.m.

Hearing Dept.: S-17, The Honorable
Joseph T. Ortiz

Action filed: February 17, 2021

Trial Date: Not Set

**Submitted Herewith Under Separate
Cover:**

1. Memorandum of Points and Authorities;
2. Declaration(s) of David Spivak, Walter L. Haines, and Nicole Shaver; and
3. [Proposed] Order



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1 TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that on June 17, 2024, at 1:30 p.m., or as soon thereafter as the
3 matter may be heard, in Department S-17 of the San Bernardino County Superior Court, located
4 at San Bernardino District – Civil Division, 247 West Third Street, Dept. S17, San Bernardino,
5 CA 92415-0210, Plaintiff Nicole Shaver (“Plaintiff”) will and hereby does move this Court for
6 an order: (1) granting class certification of the Settlement Class solely for settlement purposes
7 pursuant to California Code of Civil Procedure section 382; (2) preliminarily approving the Class
8 Action and PAGA Settlement Agreement and Class Notice (the “Settlement”)¹ between Plaintiff
9 and Defendant G and C Swan, Inc. (“Defendant”) (Plaintiff and Defendant are referred to below
10 collectively as the “Parties”), (3) appointing David Spivak of The Spivak Law Firm and Walter
11 L. Haines of United Employees Law Group as Class Counsel; (5) appointing Plaintiff as Class
12 Representative (“Class Representative”); (6) approving the use of the proposed notice procedures
13 and related forms; (7) directing that notice be mailed to the proposed Settlement Class; and (8)
14 scheduling a hearing date for motion for final approval of class action settlement and awards of
15 attorneys’ fees and costs.

16 The “Settlement Class” or “Class Members” consists of all of Defendant’s hourly, non-
17 exempt California employees and interns during the Class Period. “Class Period” means the
18 period from February 17, 2017 through the date of the Court’s preliminary approval of the
19 Settlement or the date the Class Work Weeks reach 19,924, whichever is earlier.

20 This Motion is made on the following grounds: (1) the Settlement Class meets all the
21 requirements for class certification for settlement purposes only under California Code of Civil
22 Procedure section 382; (2) Plaintiff and her counsel are adequate to represent the Settlement
23 Class; (3) the Settlement reflects a fair, adequate, and reasonable compromise of all disputed
24 claims in view of Defendant’s potential liability exposure as compared against the risks of
25 continued litigation; (4) the proposed notice procedures and related forms adequately apprise the
26 Class Members of their rights under the Settlement and fully comport with due process; and (5)
27

28 ¹ The Settlement is attached as Exhibit 1 to the Declaration of David Spivak (“DS”), which
is submitted herewith under a separate cover.



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1 in view of the foregoing, notice should be disseminated to the Class Members and a hearing date
2 for motion for final approval of class action settlement, and awards of attorneys' fees and costs
3 should be set.

4 The Motion is based on this Notice of Motion and Motion, the attached Memorandum of
5 Points and Authorities, the Declarations of David Spivak, Walter L. Haines, and Nicole Shaver,
6 all papers and pleadings on file with the Court in this action, all matters judicially noticeable, and
7 on such oral and documentary evidence as may be presented in connection with the hearing on
8 the Motion.

9 Respectfully submitted,

10 THE SPIVAK LAW FIRM

11
12 Dated: May 3, 2024

13 By: 

14 DAVID G. SPIVAK
15 LAUREN R. DAVIS, Attorneys for
16 Plaintiff, NICOLE SHAVER, and all
17 others similarly situated
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