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7 Attorneys for Plaintiff(s),
8 RAMONA SILVA-HEREDIA, and all others similarly situated

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

10 **FOR THE COUNTY OF LOS ANGELES**

11 **(UNLIMITED JURISDICTION)**

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

16 *Plaintiff(s),*

17 vs.
18

19 TACOS LOS DESVELADOS, a California
corporation; TACOS LOS DESVELADOS
20 GLENDALE, INC., a California corporation;
TACOS LOS DESVELADOS WEST COVINA,
21 INC., a California corporation; TACOS LOS
DESVELADOS WHITTIER, INC., a California
22 corporation; ADOLFO VALENZUELA, an
individual; and DOES 1–50, inclusive,

23 *Defendant(s).*
24

Case No. 21STCV11103

**[PROPOSED] ORDER
PRELIMINARILY APPROVING
FIRST AMENDED CLASS AND PAGA
ACTION SETTLEMENT
AGREEMENT**

Hearing Date: October 31, 2023
Hearing Time: 9:00 am
Hearing Dept.: 17, The Honorable
Maren E. Nelson

Action filed: March 19, 2021



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1 The Motion of Plaintiff Ramona Silva-Heredia (hereafter referred to as “Plaintiff”) for
2 Preliminary Approval of the Class Action and PAGA Settlement Agreement and the
3 Supplemental Memorandum of Points and Authorities (the “Motion”) was considered by the
4 Court, The Honorable Maren E. Nelson presiding. The Court having considered the Motion, the
5 First Amended Class Action and PAGA Settlement Agreement (“Settlement” or “Settlement
6 Agreement”), and supporting papers, HEREBY ORDERS THE FOLLOWING:

7
8 1. The Court grants preliminary approval of the Settlement and the Settlement Class
9 based upon the terms set forth in the Settlement filed as an Exhibit to the Motion for Preliminary
10 Approval. All terms herein shall have the same meaning as defined in the Settlement. The Court
11 has determined there is sufficient evidence to preliminarily determine that (a) the terms of the
12 Settlement appear to be fair, adequate, and reasonable to the Settlement Class and (b) the
13 Settlement falls within the range of reasonableness and appears to be presumptively valid, subject
14 only to any objections that may be raised at the final hearing and final approval by this Court. The
15 Court will make a determination at the hearing on the motion for final approval of class action
16 settlement (the “Final Approval Hearing”) as to whether the Settlement is fair, adequate and
17 reasonable to the Settlement Class.
18

19 2. For purposes of this Preliminary Approval Order, the “Settlement Class” means
20 all persons employed by Defendant in California and classified as hourly, non-exempt employees
21 (collectively “Class Members”), who worked for Defendants anytime during the Class Period.
22 The “Class Period” shall mean the period of time from March 19, 2017, through May 31, 2022.
23 Defendants contend that there are 140 potential Settlement Class Members. The “Effective Date”
24 means as follows: If no objection to this Settlement or to any of the terms and or conditions of the
25 Settlement are filed by Plaintiff, another member of the Settlement class, or any intervenor to this
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1 Lawsuit, the Effective Date shall occur on the day that the Court enters an order of final approval
2 of this Settlement; however, if any objection to this Settlement or to any of the terms and or
3 conditions of the Stipulation is filed by a member of the Settlement class, or any intervenor to
4 this Lawsuit, the Effective Date shall occur upon the expiration of the time for the filing any
5 appeal of the order of final approval of this Settlement. If an appeal is filed or any writ granted,
6 then the Effective Date shall occur after the appeal has been dismissed or the writ dissolved and
7 when there is no further time to appeal the dismissal of the appeal or the dissolution of the writ.
8 The occurrence of the Effective Date is a prerequisite to any obligation of Defendants to pay any
9 funds into the Settlement Account.
10

11 3. This action is provisionally certified pursuant to section 382 of the California Code
12 of Civil Procedure and Rule 3.760, et seq. of the California Rules of Court as a class action for
13 purposes of settlement only with respect to the proposed Settlement Class.
14

15 4. The Court hereby preliminarily finds that the Settlement was the product of
16 serious, informed, non-collusive negotiations conducted at arm's length by the Parties. In making
17 this preliminary finding, the Court considered the nature of the claims set forth in the pleadings,
18 the amounts and kinds of benefits which shall be paid pursuant to the Settlement, the allocation
19 of Settlement proceeds to the Settlement Class, and the fact that the Settlement represents a
20 compromise of the Parties' respective positions. The Court further preliminarily finds that the
21 terms of the Settlement have no obvious deficiencies and do not improperly grant preferential
22 treatment to any individual Class Member. Accordingly, the Court preliminarily finds that the
23 Settlement was entered into in good faith.
24

25 5. The Court finds that the dates set forth in the Settlement for mailing and
26 distribution of the Class Notice meet the requirements of due process and provide the best notice
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1 practicable under the circumstances, and constitute due and sufficient notice to all persons entitled
2 thereto, and directs the mailing of the Class Notice by first class mail to the Settlement Class as
3 set forth in the Settlement. Accordingly, the Court orders the following implementation schedule
4 for further proceedings:

5
6 a. Defendants shall provide CPT Group, Inc. the appointed Settlement
7 Administrator, with: (a) An electronic database of all Class Members, last
8 known mailing address, Social Security number and Defendants' employee
9 identification number ("Class Members' Data"); and (b) Corresponding to
10 each Class Member's name, Defendants shall provide a figure indicating the
11 total number of Work Weeks during the Class Period in which Defendants
12 employed the Class Member. That number of Work Weeks shall be referred to
13 as that Class Member's "Individual Work Weeks;" (c) If any of the Class
14 Members' Data are unavailable to Defendants, Defendants will so inform
15 Class Counsel and the Parties will make their best efforts to reconstruct or
16 otherwise agree upon the Class Members' Data prior to when it must be
17 submitted to the Settlement Administrator. Class Members' Data will
18 otherwise remain confidential and will not be disclosed to anyone, except as
19 necessary to applicable taxing authorities, or pursuant to Defendants' express
20 written authorization or by order of the Court.

21
22
23 b. **Mailing of Class Notice.** Approximately fourteen (14) days after receiving
24 the Class Members' Data, or as soon thereafter as it can do so, the Settlement
25 Administrator will mail the Class Notice to all identified Class Members via
26 first-class U.S. mail using the mailing address information provided by



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1 Defendants, unless modified by any updated address information that the
2 Settlement Administrator obtains in the course of administration of the
3 Settlement.

4
5 c. **Returned Class Notice.** If a Class Notice is returned because of an incorrect
6 address, the Settlement Administrator will promptly, and not later than ten (10)
7 days from receipt of the returned Class Notice, search for a more current
8 address for the Class Member and re-mail the Class Notice to the Class
9 Member. The Settlement Administrator will use the Class Members' Data and
10 otherwise work with Defendants' Counsel and Class Counsel to find a more
11 current address. The Settlement Administrator will be responsible for taking
12 reasonable steps, consistent with its agreed-upon job parameters, court orders,
13 and fee, to trace the mailing address of any Class Member for whom a Class
14 Notice is returned as undeliverable by the U.S. Postal Service. These
15 reasonable steps shall include the tracking of all undelivered mail; performing
16 address searches for all mail returned without a forwarding address; and
17 promptly re-mailing to Class Members for whom new addresses are found. If
18 the Class Notice is re-mailed, the Settlement Administrator will note for its
19 own records and notify Class Counsel and Defendants' Counsel of the date and
20 address of each such re-mailing as part of a weekly status report provided to
21 the Parties.

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24 d. **Declaration of Settlement Administrator.** Not later than twenty-one (21)
25 court days prior to the Final Approval Hearing, the Settlement Administrator
26 will provide the Parties for filing with the Court a declaration of due diligence



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1 setting forth its compliance with its obligations under this Agreement. Prior to
2 the Final Approval Hearing, the Settlement Administrator will supplement its
3 declaration of due diligence if any material changes occur from the date of the
4 filing of its prior declaration.

5 **e. Requests for Exclusion from Settlement; and Objections to Settlement.**

6 Class Members may submit requests to be excluded from the effect of the
7 Settlement, or objections to the Settlement, pursuant to the following
8 procedures:
9

10 i. **Request for Exclusion from Settlement.** A Class Member may
11 request to be excluded from the effect of this Agreement, and any
12 payment of amounts under this Agreement, by timely mailing a letter
13 to the Settlement Administrator stating that the Class Member wants to
14 be excluded from this Action. This letter must include the Class
15 Member's name, address, telephone number, and signature. To be valid
16 and timely, the request to be excluded must be postmarked by the date
17 specified in the Class Notice (or 60 days from the initial mailing of the
18 Class Notice by the Settlement Administrator). A Class Member who
19 properly submits a valid and timely request to be excluded from the
20 Action shall not receive any payment of any kind in connection with
21 this Agreement or this Action, shall not be bound by or receive any
22 benefit of this Agreement, and shall have no standing to object to the
23 Settlement. A request for exclusion must be mailed to the Settlement
24 Administrator at the address provided on the Class Notice. The
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1 Settlement Administrator shall transmit the request for exclusion to
2 counsel for the Parties as follows:

3
4 *To Class Counsel:*

5 David G. Spivak, Esq.
6 The Spivak Law Firm
7 8605 Santa Monica Bl
8 PMB 42554
9 West Hollywood, CA 90069

To Defense Counsel:

Roxana E. Verano
Landegger Verano & Davis, ALC
Ms. Roxana E. Verano Esq.
15760 Ventura Blvd.
Ste 1200
Encino, CA 91436

10 ii. **Objections to Settlement.** The Class Notice will provide that any
11 Class Member who does not request exclusion from the Action and
12 who wishes to object to the Settlement should submit an objection in
13 writing to the Settlement Administrator 60 days after the Settlement
14 Administrator mails the Class Notice, a written objection to the
15 Settlement which sets forth the grounds for the objection and the other
16 information required by this paragraph. The objection should be mailed
17 to the Settlement Administrator at the address provided on the Class
18 Notice. The Settlement Administrator shall transmit the objections to
19 counsel for the Parties as follows:

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21
22 *To Class Counsel:*

23 David G. Spivak, Esq.
24 The Spivak Law Firm
25 8605 Santa Monica Bl
26 PMB 42554
27 West Hollywood, CA 90069

To Defense Counsel:

Roxana E. Verano
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28 The written objection should state the objecting Class Member's full



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1 name, address, and the approximate dates of his or her employment
2 with Defendants. The written objection should state the basis for each
3 specific objection and any legal support in clear and concise terms. The
4 written objection also should state whether the Class Member intends
5 to formally intervene and become a party of record in the action, and
6 upon formally intervening, appear and argue at the Final Approval
7 Hearing. However, the objectors will be provided with the opportunity
8 to speak at the final approval hearing regardless of whether they have
9 filed an appearance or submitted a written opposition beforehand.
10
11 If the objecting Class Member does not formally intervene in the action
12 and/or the Court rejects the Class Member's objection, the Class
13 Member may still be bound by the terms of this Agreement.

14
15 f. **Report.** Not later than fourteen (14) days after the deadline for submission of
16 requests for exclusion, the Settlement Administrator will provide the Parties
17 with a complete and accurate list of all Class Members who sent timely
18 requests to be excluded from the Action and all Class Members who objected
19 to the settlement.

20 6. The Court approves, as to form and content, the Class Notice in substantially the
21 form attached as Exhibit A to the Settlement.

22
23 7. The Court approves, for settlement purposes only, David Spivak of The Spivak
24 Law Firm as Class Counsel.

25 8. The Court approves, for settlement purposes only, Ramona Silva-Heredia as the
26 Class Representative.



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- 1 9. The Court approves CPT Group, Inc. as the Settlement Administrator.
- 2 10. The Court preliminarily approves Class Counsel’s request for attorneys’ fees and
- 3 costs subject to final review by the Court.
- 4 11. The Court preliminarily approves the estimated Settlement Administrator costs
- 5 payable to the Settlement Administrator subject to final review by the Court.
- 6 12. The Court preliminarily approves Plaintiff’s Class Representative Payment subject
- 7 to final review by the Court.
- 8 13. A Final Approval Hearing shall be held on May 15, 2023 at 9:00 a.m. in the
- 9 Superior Court for the State of California, County of Los Angeles, located at Spring Street
- 10 Courthouse, 312 North Spring Street, Los Angeles, CA 90012 to consider the fairness, adequacy
- 11 and reasonableness of the proposed Settlement preliminarily approved by this Preliminary
- 12 Approval Order, and to consider the application of Class Counsel for attorneys’ fees and costs
- 13 and the Class Representative Payment to the Class Representative. The notice of motion and all
- 14 briefs and materials in support of the motion for final approval of class action settlement and
- 15 motion for attorneys’ fees and litigation costs shall be served and filed with this Court on or before
- 16 fees and litigation costs shall be served and filed with this Court on or before sixteen (16) court
- 17 days before the Final Approval Hearing.
- 18 14. If for any reason the Court does not execute and file a final approval order and
- 19 judgment, or if the Effective Date, as defined in the Settlement, does not occur for any reason, the
- 20 proposed Settlement that is the subject of this order, and all evidence and proceedings had in
- 21 connection therewith, shall be without prejudice to the status quo ante rights of the Parties to the
- 22 litigation, as more specifically set forth in the Settlement.
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2 15. The Court expressly reserves the right to adjourn or continue the Final Approval
3 Hearing from time to time without further notice to members of the Class. The Plaintiff shall give
4 prompt notice of any continuance to Settlement Class Members who object to the Settlement.

5 **IT IS SO ORDERED.**

6
7 DATED: _____

8 **THE HONORABLE MAREN E. NELSON**
9 **JUDGE OF THE SUPERIOR COURT**



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PROOF OF SERVICE

State of California,
County of Los Angeles

1. I am a citizen of the United States and am employed in the County of Los Angeles, State of California. I am over the age of 18 years, and not a party to the within action. My business address is The Spivak Law Firm, 1801 Century Park East, 25th Fl, Los Angeles, CA 90067.

2. I am familiar with the practice of The Spivak Law Firm, for collection and processing of correspondence for mailing with the United States Postal Service. It is the practice that correspondence is deposited with the United States Postal Service the same day it is submitted for mailing.

On **September , 2023**, I served the foregoing document(s) described as

1. **PLAINTIFF RAMONA SILVA-HEREDIA'S SUPPLEMENTAL MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PLAINTIFF'S MOTION FOR PRELIMINARY APPROVAL OF FIRST AMENDED CLASS ACTION AND PAGA SETTLEMENT AGREEMENT;**
2. **SUPPLEMENTAL DECLARATION OF DAVID G. SPIVAK IN SUPPORT OF PLAINTIFF RAMONA SILVA-HEREDIA'S MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT AGREEMENT;**
3. **DECLARATION OF RAMONA SILVA-HEREDIA IN SUPPORT OF PLAINTIFF RAMONA SILVA-HEREDIA'S MOTION FOR PRELIMINARY APPROVAL OF FIRST AMENDED CLASS ACTION AND PAGA SETTLEMENT;**
4. **DECLARATION OF MICHAEL MOORE IN SUPPORT OF PLAINTIFF RAMONA SILVA-HEREDIA'S MOTION FOR PRELIMINARY APPROVAL OF FIRST AMENDED CLASS ACTION AND PAGA SETTLEMENT; and**
5. **[PROPOSED] ORDER GRANTING PRELIMINARY APPROVAL OF FIRST AMENDED CLASS ACTION AND PAGA SETTLEMENT AGREEMENT**

on interested parties by placing true and correct copies thereof enclosed in a sealed envelope, with postage fully prepaid, addressed as follows:

**Roxana E. Verano Esq.
Landegger Verano & Davis, ALC
15760 Ventura Blvd.
Ste 1200
Encino CA 91436
roxana@landeggeresq.com**

**Alysha R. Zapata Esq.
Landegger Verano & Davis, ALC
15760 Ventura Blvd.
2nd Floor
Encino CA 91436
alysha@landeggeresq.com**

XXXX (BY MAIL) I caused such an envelope to be mailed by placing it for collection and mailing, in the course of ordinary business practice, with other correspondence of The Spivak Law Firm, 1801 Century Park East, 25th Fl, Los Angeles, CA 90067.

XXXX (BY EMAIL) Based on a court order or an agreement of the parties to accept electronic service, I caused the documents to be sent to the persons at the electronic service addresses listed above from my electronic service address



EXECUTED on September , 2023, at _____, California.

XXXX (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.



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