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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF FRESNO

JOSE ERNESTO LUCAS, individually, and on
behalf of all others similarly situated,

Plaintiff,

vs.

SW INGREDIENTS HOLDINGS, LLC, a
Delaware limited liability company; SPICE
WORLD INC., a Florida corporation; SPICE
WORLD, LLC, a Florida limited liability
company; and DOES 1 through 10, inclusive,

Defendants

Lead Case No. 21CECG01943
(Consolidated with cases 21CECG03840,
22CECG00586)

[Assigned to Hon. Jonathan Skiles, Dept. 403]

**CONSOLIDATED CLASS AND
REPRESENTATIVE ACTION**

**NOTICE OF MOTION AND MOTION
FOR AN ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

Date: May 11, 2023

Time: 3:30 p.m.

Dept. 403

Judge: Jonathan Skiles

JOSE MAGALLAN, on behalf of himself and all
others similarly situated,

Plaintiff,

vs.

SW INGREDIENTS HOLDINGS, LLC d/b/a
SPICE WORLD, INC., a Delaware Limited
Liability Company; and DOES 1 Through 10,
inclusive,

Defendants.

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Attorneys for Plaintiff Jose Magallan

PLEASE TAKE NOTICE that on May 11, 2023 at 3:30 p.m. or as soon as the matter may be heard in Department 403 of the B.F. Sisk Courthouse of above-captioned Court located at 1130 O Street, Fresno, California 93721-2220, the Honorable Jonathan Skiles presiding, Plaintiffs Jose Ernesto Lucas and Jose Magallan, on behalf of themselves and the putative Class, will move this Court for an Order:

1. Preliminarily approving the class action settlement as fair, adequate, and reasonable based on the terms set forth in the Class Action and PAGA Settlement Agreement and Class Notice ("Settlement Agreement"), including payment by Defendants SW INGREDIENTS HOLDINGS, LLC, SPICE WORLD, INC., SPICE WORLD, LLC of the non-reversionary \$425,000 for the benefit of the estimated 296 Class Members;

2. Conditionally certifying the above-captioned case as a class action for settlement purposes only;

3. Preliminarily approving Plaintiffs as the Class Representatives, and preliminarily approving the Class Representative Service Payment of \$7,500 each for initiating and prosecuting the action on behalf of the Class, as compensation for the burdens, responsibilities, time, effort, and risks involved in coming forward on their behalf and for giving a general release of all claims;

4. Preliminarily appointing Plaintiffs' Counsel, Moon & Yang, APC, Cohelan Khoury & Singer, and Davtyan Law Firm, Inc., as Class Counsel;

5. Preliminarily approving payment of reasonable attorneys' fees of \$141,666.67 and litigation costs of up to \$30,000.00 from the Gross Settlement Amount, subject to Court approval at the time of the Final Approval Hearing;

6. Preliminarily approving the PAGA Payment of \$5,000.00 of which \$3,750.00 (75%) will be paid to the California Labor Workforce and Development Agency for all applicable civil penalties pursuant to California Labor Code section 2698, *et seq.*, and \$1,250.00 to be distributed on a proportionate basis to all PAGA Members based on the number of Pay Periods Worked during the PAGA Period.

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7. Preliminarily approving ILYM Group, Inc., as the Administrator, and approving distribution of an amount not to exceed \$8,600.00 from the Gross Settlement Amount to cover its expenses in administering this Settlement;

8. Approving the proposed Notice of Proposed Class Action Settlement (“Class Notice”), and directing distribution of the Class Notice to all members of the Class. The Class Notice advises the Class of the pendency of Class Action, the proposed Settlement, the timing, manner and procedure for objections, requests for exclusion, of the automatic payment of their share of the Settlement funds without a claim form and the releases to be given in exchange for such payment, and of the final approval hearing date, time and place; and

9. Setting a hearing date to consider the final approval of the Settlement, and Class Counsels' application for attorneys' fees, litigation costs, the Class Representative Service Payments, and the Administrator's fees.

This motion is based on this Notice of Motion, the Memorandum of Points and Authorities in Support, Declarations of Class Counsel Isam C. Khoury, Emil Davtyan, and Allen Feghali, Declarations of Plaintiffs Jose Ernesto Lucas and Jose Magallan, Declaration of Sean Hartranft on behalf of ILYM Group, Inc., Class Action and PAGA Settlement Agreement and Class Notice, and the [Proposed] Order Granting Preliminary Approval of Class Action Settlement, the Court's files in this matter, and any other documents or evidence which the Court may consider at the hearing.

MOON & YANG, APC

Dated: April 19, 2023

By: Rosemary Khoury for Brett Gunther with
Kane Moon permission
Allen Feghali
Brett Gunther
Sohyun Julie Oh
Attorneys for Plaintiff Jose Ernesto Lucas

COHELAN KHOURY & SINGER
DAVTYAN LAW FIRM, INC.

Dated: April 19, 2023

By: Rosemary Khoury
Isam C. Khoury

Michael D. Singer
Rosemary C. Khoury
Attorneys for Plaintiff Jose Magallan

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