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7 Attorneys for Plaintiff(s),

8 MARIA ELENA DIAZ HERNANDEZ, 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 SACRAMENTO**

12 **(UNLIMITED JURISDICTION)**

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

17 *Plaintiff(s),*

18 vs.

19
20 GUITRON ALCAZAR ALCAZAR INC., a
21 California corporation doing business as El
Tapatio Mexican Cuisine; GUITRON
22 ALCAZAR III, INC, a California corporation;
23 GUITRON ALCAZAR IV, LLC, a California
24 limited liability company; and DOES 3–50,
inclusive,

25 *Defendant(s).*

Case No. 34-2021-00306648

**PLAINTIFF MARIA ELENA DIAZ
HERNANDEZ’S NOTICE OF
MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT**

Hearing Date: March 1, 2022

Hearing Time: 9:00 a.m.

Reservation No. A-306648-001

Hearing Dept.: 22, The Honorable
Lauri A. Damrell

Action filed: August 23, 2021

**Submitted Herewith Under Separate
Cover:**

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



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ADDITIONAL ATTORNEYS FOR PLAINTIFF(S)

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MARIA ELENA DIAZ HERNANDEZ, and all others similarly situated



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

2 PLEASE TAKE NOTICE that on March 1, 2024 at 9:00 a.m., or as soon thereafter as the
3 matter may be heard, in Department 22 of the Sacramento County Superior Court, located at 720
4 Ninth Street, Sacramento, CA 95814, Plaintiff Maria Elena Diaz Hernandez (“Plaintiff”) will and
5 hereby does move this Court for an order: (1) granting class certification of the Settlement Class
6 solely for settlement purposes pursuant to California Code of Civil Procedure section 382; (2)
7 preliminarily approving the Class Action and PAGA Settlement Agreement and Class Notice (the
8 “Settlement”)¹ between Plaintiff and Defendants Guitron Alcazar Alcazar Inc. dba El Tapatio
9 Mexican Cuisine, Guitron Alcazar III Inc., and Guitron Alcazar IV, LLC (collectively
10 “Defendants”) (Plaintiff and Defendants are referred to below collectively as the “Parties), (3)
11 appointing David Spivak of The Spivak Law Firm and Walter L. Haines of United Employees
12 Law Group as Class Counsel; (5) appointing Plaintiff as Class Representative (“Class
13 Representative”); (6) approving the use of the proposed notice procedures and related forms; (7)
14 directing that notice be mailed to the proposed Settlement Class; and (8) scheduling a hearing
15 date for motion for final approval of class action settlement and awards of attorneys’ fees and
16 costs.

17 The “Settlement Class” or “Class Members” consists of all persons employed by
18 Defendants in California and classified as non-exempt, hourly employees who worked for
19 Defendants during the Class Period. “Class Period” means the period from August 23, 2017
20 through the date of the order preliminarily approving the Settlement.

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

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 Class Members of their rights under the Settlement and fully comport with due process; and (5)
2 in view of the foregoing, notice should be disseminated to the Class Members and a hearing date
3 for motion for final approval of class action settlement, and awards of attorneys' fees and costs
4 should be set.

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

10 Respectfully submitted,

11
12 THE SPIVAK LAW FIRM

13 Dated: February 7, 2024

14 By: 

15 DAVID G. SPIVAK
16 MAYA CHEAITANI, Attorneys for
17 Plaintiff, MARIA ELENA DIAZ
18 HERNANDEZ, and all others similarly
19 situated
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