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7 Attorneys for Plaintiff,

8 LUIS LARRABURU, and all others similarly situated

9 (Additional attorneys for Plaintiff on following page)

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

11 **FOR THE COUNTY OF LOS ANGELES**

12 **(UNLIMITED JURISDICTION)**

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

17 *Plaintiff(s),*

18 vs.

19 AMERICAN MERCHANDISING
20 SPECIALISTS, INC., a North Carolina
21 corporation; and DOES 1–50, inclusive,

22 *Defendant(s).*

Case No. 21STCV17704

**PLAINTIFF LUIS LARRABURU’S
NOTICE OF MOTION FOR
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

Hearing Date: September 1, 2022

Hearing Time: 10:00 a.m.

Hearing Dept.: SSC-9, The Honorable
Yvette M. Palazuelos

Action filed: May 11, 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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1 TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that on September 1, 2022 at 10:00 a.m., or as soon thereafter
3 as the matter may be heard, in Department SSC-9 of the Los Angeles County Superior Court,
4 located at 312 North Spring Street, Los Angeles, CA 90012, Plaintiff Luis Larraburu (“Plaintiff”)
5 will and hereby does move this Court for an order: (1) granting class certification of the Settlement
6 Class solely for settlement purposes pursuant to California Code of Civil Procedure section 382;
7 (2) preliminarily approving the JOINT STIPULATION OF CLASS ACTION SETTLEMENT
8 AND RELEASE OF CLAIMS (the “Settlement”)¹ between Plaintiff and Defendant American
9 Merchandising Specialists, Inc. (“Defendant”) (Plaintiff and Defendant are collectively the
10 “Parties), (3) appointing David Spivak of The Spivak Law Firm and Walter L. Haines of United
11 Employees Law Group as class counsel; (4) appointing Plaintiff as class representative, (5)
12 approving the use of the proposed notice procedures and related forms; (6) directing that notice
13 be mailed to the proposed Settlement Class; and (7) scheduling a hearing date for motion for final
14 approval of class action settlement and awards of attorneys’ fees and costs.

15 The “Settlement Class” or “Class Members” consists of all current and former non-exempt
16 employees who are or were employed by Defendant in the State of California during the Class
17 Period. “Class Period” means the period from August 25, 2016, through March 15, 2022.

18 The “PAGA Members” consists of all Settlement Class Members who worked for
19 Defendant from August 20, 2019, through March 15, 2022.

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 his counsel are adequate to represent the Settlement Class;
23 (3) the Settlement reflects a fair, adequate, and reasonable compromise of all disputed claims in
24 view of Defendant’s potential liability exposure as compared against the risks of continued
25 litigation; (4) the proposed notice procedures and related forms adequately apprise the Class
26 Members of their rights under the Settlement and fully comport with due process; and (5) in view

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

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

9 Respectfully submitted,

11 THE SPIVAK LAW FIRM

12 Dated: June 6, 2022

12 By: 

13 DAVID G. SPIVAK
14 MAYA CHEAITANI, Attorneys for
15 Plaintiff LUIS LARRABURU, and all
16 others similarly situated
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