

1 DAVID G. SPIVAK (SBN 179684)
david@spivaklaw.com

2 MAYA CHEAITANI (SBN 335777)
maya@spivaklaw.com

3 THE SPIVAK LAW FIRM

4 8605 Santa Monica Bl

PMB 42554

5 West Hollywood, CA 90069

6 Telephone: (213) 725-9094

Facsimile: (213) 634-2485

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

**SECOND SUPPLEMENTAL
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
PLAINTIFF’S MOTION FOR
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

Hearing Date: November 21, 2023
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) Second Supplemental Declaration of David Spivak, and
- 2) Supplemental Declaration of Luis Larraburu.



SPIVAK LAW
Employee Rights Attorneys

Mail:
8605 Santa Monica Bl
PMB 42554
West Hollywood, CA 90069
(213) 725-9094 Tel
(213) 634-2485 Fax
SpivakLaw.com

Office:
1801 Century Park East
25th Fl
Los Angeles CA 90067

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ADDITIONAL ATTORNEYS FOR PLAINTIFF(S)

WALTER L. HAINES (SBN 71075)
walter@uelglaw.com
UNITED EMPLOYEES LAW GROUP, PC
8605 Santa Monica Blvd., PMB 63354
West Hollywood, CA 90069
Telephone: (562) 256-1047
Facsimile: (562) 256-1006



SPIVAK LAW
Employee Rights Attorneys

Mail:
8605 Santa Monica Bl
PMB 42554
West Hollywood, CA 90069
(213) 725-9094 Tel
(213) 634-2485 Fax
SpivakLaw.com

Office:
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25th Fl
Los Angeles CA 90067

1 **SEONCD SUPPLEMENTAL MEMORANDUM OF POINTS AND AUTHORITIES**

2 Plaintiff Luis Larraburu (“Plaintiff”) submits this second supplemental memorandum of
3 points and authorities in support of his Motion for Preliminary Approval of Class Action
4 Settlement. On February 24, 2023, the Court issued an order directing counsel to file supplemental
5 papers addressing specific items regarding the Motion for Preliminary approval. (Second
6 Supplemental Declaration of David Spivak (“Second Supp. Decl. Spivak”), ¶ 2, Ex. 18). The
7 Court also scheduled for August 4, 2023, a non-appearance case review regarding the filing of
8 supplemental papers. Pursuant to the Court’s ruling, the Parties Amended the First Amended Joint
9 Stipulation of Class Action Settlement and Release of Claims to address the Court’s concerns.
10 The Parties seek approval of this new settlement agreement, entitled Second Amended Joint
11 Stipulation of Class Action Settlement and Release of Claims dated July 28, 2023 (“Second
12 Amended Settlement”). Suppl. Decl. Spivak, ¶ 3, Exs. 19 (clean) and 20 (redline). Each of the
13 Court’s comments are recited below in bold, followed by a discussion of the Parties’ response to
14 the comments.
15

16 **1) Plaintiff Larraburu’s declaration at ¶ 6 states: “I have provided Defendant with**
17 **a release of any and all claims, known or unknown, I may have against the**
18 **Defendant.” However, the Settlement Agreement does not contain any provision**
19 **regarding a general release of known or unknown claims by the Plaintiff. Please**
20 **clarify – Did Plaintiff enter into a separate individual agreement with Defendant?**
21 **If so, provide information about the terms, including whether Plaintiff is**
22 **receiving any payment in addition to that provided in the class settlement**
23 **agreement and why there isn’t a potential conflict of interest with the class.**

24 The Second Amended Settlement has been amended to include a General Release by
25 Plaintiff to conform to the Settlement terms the Parties reached at the mediation. Second Amended
26 Settlement Agreement, §V.D.



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Los Angeles CA 90067

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