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8 MARTHA P. BRIANO MARTINEZ, 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 SONOMA**

12 **(UNLIMITED JURISDICTION)**

13 MARTHA P. BRIANO MARTINEZ, on behalf
14 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 NOR CAL FOODS, LLC, a California
20 corporation; and DOES 1–50, inclusive,

21 *Defendant(s).*

Case No. SCV-270596

**PLAINTIFF MARTHA P. BRIANO
MARTINEZ’S NOTICE OF MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

Hearing Date: _____

Hearing Time: _____

Hearing Dept.: 16, The Hon. Patrick
Broderick

Action filed: April 13, 2022

**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 a date to be determined by the Court in Department 19
3 of the Sonoma County Superior Court, located at Sonoma Superior Court, 600 Administration
4 Avenue, Room 107J, Santa Rosa, CA 95403-2878, Plaintiff Martha P. Briano Martinez
5 (“Plaintiff”) will and hereby does move this Court for an order: (1) granting class certification of
6 the Settlement Class solely for settlement purposes pursuant to California Code of Civil Procedure
7 section 382; (2) preliminarily approving the Class Action and PAGA Settlement Agreement and
8 Class Notice (the “Settlement”)¹ between Plaintiff and Defendant Nor Cal Foods, LLC
9 (“Defendant”) (Plaintiff and Defendant are collectively the “Parties), (3) appointing David Spivak
10 of The Spivak Law Firm and Walter L. Haines of United Employees Law Group, PC as Class
11 Counsel; (5) appointing Plaintiff as Class Representative (“Class Representative”); (6) approving
12 the use of the proposed notice procedures and related forms; (7) directing that notice be mailed to
13 the proposed Settlement Class; and (8) scheduling a hearing date for motion for final approval of
14 class action settlement and awards of attorneys’ fees and costs.

15 The “Settlement Class” or “Class Members” means all persons employed by Defendant
16 in California and classified as hourly, non-exempt employees who worked for Defendant during
17 the Class Period and did not execute a release of his/her/their claims. “Class Period” means the
18 period from April 13, 2018 to the date of preliminary approval of this Settlement.

19 This Motion is made on the following grounds: (1) the Settlement Class meets all the
20 requirements for class certification for settlement purposes only under California Code of Civil
21 Procedure section 382; (2) Plaintiff and her counsel are adequate to represent the Settlement
22 Class; (3) the Settlement reflects a fair, adequate, and reasonable compromise of all disputed
23 claims in view of Defendant’s potential liability exposure as compared against the risks of
24 continued litigation; (4) the proposed notice procedures and related forms adequately apprise the
25 Class Members of their rights under the Settlement and fully comport with due process; and (5)
26 in view of the foregoing, notice should be disseminated to the Class Members and a hearing date
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 for motion for final approval of class action settlement, and awards of attorneys' fees and costs
2 should be set.

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

8 Respectfully submitted,

10 THE SPIVAK LAW FIRM

11 Dated: September 1, 2023

By: 

DAVID G. SPIVAK
MAYA CHEAITANI, Attorneys for
Plaintiff, MARTHA P. BRIANO
MARTINEZ, and all others similarly
situated



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