

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

2 LAUREN R. DAVIS (SBN 294115)
lauren@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 GENARO REYES VILLAGRA, 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 SANTA BARBARA**

12 **(UNLIMITED JURISDICTION)**

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

17 *Plaintiff(s),*

18 vs.

19
20 INNOVATIVE PRODUCE, INC., a California
21 corporation; and DOES 1–50, inclusive,

22 *Defendant(s).*

Case No. 22CV02744

**PLAINTIFF GENARO REYES
VILLAGRA’S NOTICE OF MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

Hearing Date: May 21, 2024

Hearing Time: 8:30 a.m.

Hearing Dept.: 2, The Honorable James
F. Rigali

Action filed: July 18, 2022

Trial Date: Not Set

**Submitted Herewith Under Separate
Cover:**

1. Memorandum of Points and Authorities;
2. Declarations of David Spivak and Louis M. Benowitz; and
3. [Proposed] Order



SPIVAK LAW
EMPLOYEE RIGHTS

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

ADDITIONAL ATTORNEYS FOR PLAINTIFF

LOUIS M. BENOWITZ (SBN 262300)

louis@benowitzlaw.com

BENOWITZ LAW CORPORATION

8605 Santa Monica Boulevard

PMB 97638

West Hollywood, CA 90069

Telephone: (747) 233-2600 Work

Facsimile: (818) 839-9610

Attorneys for Plaintiff,

GENARO REYES VILLAGRA, and all others similarly situated



SPIVAK LAW
EMPLOYEE RIGHTS

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

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

2 PLEASE TAKE NOTICE that on May 21, 2024 at 8:30 a.m., or as soon thereafter as the
3 matter may be heard, in Department 2 of the Santa Barbara County Superior Court, located at
4 Cook Division, 312 East Cook Street, Building C, Santa Maria, CA 93454, Plaintiff Genaro Reyes
5 Villagra (“Plaintiff”) will and hereby does move this Court for an order: (1) granting class
6 certification of the Settlement Class solely for settlement purposes pursuant to California Code
7 of Civil Procedure section 382; (2) preliminarily approving the Class Action and PAGA
8 Settlement Agreement and Class Notice (the “Settlement”)¹ between Plaintiff and Defendant
9 Innovative Produce, Inc. (“Defendant”) (Plaintiff and Defendant are referred to below collectively
10 as the “Parties”), (3) appointing David Spivak of The Spivak Law Firm and Louis M. Benowitz
11 of Benowitz Law Corporation as Class Counsel; (5) appointing Plaintiff as Class Representative
12 (“Class Representative”); (6) approving the use of the proposed notice procedures and related
13 forms; (7) directing that notice be mailed to the proposed Settlement Class; and (8) scheduling a
14 hearing date for motion for final approval of class action settlement and awards of attorneys’ fees
15 and costs.

16 The “Class” consists of all persons directly employed by Defendant in California and
17 classified as non-exempt employees who worked during the Class Period. Settlement, para. 1.5.
18 “Class Period” means the period from July 18, 2018 through the order preliminarily approving
19 this Settlement. Settlement, para. 1.13.

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.



SPIVAK LAW
EMPLOYEE RIGHTS

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

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 Declarations of David Spivak, Louis M. Benowitz, and Genaro Reyes
6 Villagra, all papers and pleadings on file with the Court in this action, all matters judicially
7 noticeable, and on such oral and documentary evidence as may be presented in connection with
8 the hearing on the Motion.

9 Respectfully submitted,

10 THE SPIVAK LAW FIRM

11
12 Dated: April 25, 2024

13 By: David Spivak
14 DAVID G. SPIVAK and LAUREN R.
15 DAVIS, Attorneys for Plaintiff,
16 GENARO REYES VILLAGRA, and all
17 others similarly situated
18
19
20
21
22
23
24



25 SPIVAK LAW
EMPLOYEE RIGHTS

26 Mail:
27 8605 Santa Monica Bl
PMB 42554
West Hollywood, CA 90069
(213) 725-9094 Tel
(213) 634-2485 Fax
SpivakLaw.com

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