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7 NICOLAS ALVAREZ on behalf of himself
and others similarly situated

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE**

10
11 NICOLAS ALVAREZ, on behalf of himself and
others similarly situated,

12 PLAINTIFF,

13 vs.

14 THE MEN'S WAREHOUSE, INC., a
15 corporation; and DOES 1 to 100, inclusive,

16 DEFENDANTS.
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Case No.: BC636180

Assigned for All Purposes to the Honorable
Elihu M. Berle, Dept. SS-6

CLASS ACTION

**[AMENDED-PROPOSED] JUDGMENT
AND ORDER GRANTING PLAINTIFF'S
MOTION FOR FINAL APPROVAL OF
CLASS ACTION SETTLEMENT**

FILED
Superior Court of California
County of Los Angeles

NOV 20 2018

Sherri R. Carter, Executive Officer/Clerk
By Mafisela Fregoso Deputy

1 Plaintiff's motion for an order and judgment granting final approval of the class action
2 settlement came before this Court on November 20, 2018. The above captioned action is a class action
3 lawsuit brought by Plaintiff Nicolas Alvarez against Defendant The Men's Wearhouse, Inc. In his
4 First Amended Complaint, Plaintiff alleges the following causes of action: (1) Failure to Include all
5 Remuneration When Calculating the Overtime Rate of Pay in Violation of Labor Code; (2) Failure to
6 Provide Complete and Accurate Wage Statements in Violation of Labor Code; (3) Failure to Timely
7 Pay Unpaid Wages After Separation Of Employment; (4) Unfair Business Practices in Violation of
8 Business and Professions Code Section 17200, *et seq.*; and (5) Liability for Civil Penalties Pursuant
9 to the Private Attorneys General Act of 2004 (PAGA).

10 Defendants deny any and all alleged wrongdoing and denies any liability to the Plaintiff or to
11 members of the putative class.

12 On July 12, 2018, this Court entered an Order Granting Preliminary Approval Of Class Action
13 Settlement, resulting in certification of the following provisional Settlement Class:

14 All non-exempt employees who have been employed by Defendant in
15 the state of California at any time from October 3, 2012, up to and
16 including July 12, 2018, who were eligible to receive any bonus and/or
17 incentive payment, and all non-exempt employees who have been
18 employed by Defendant in the State of California at any time from
October 3, 2015, up to and including July 12, 2018, who were eligible
to receive any bonus and/or incentive payment and a wage statement.

19 The Court further directed the Plaintiff and The Men's Wearhouse. (collectively the "Parties") to
20 provide notice to the class, which informed absent class members of: (a) the proposed settlement, and
21 the settlement's key terms; (b) the date, time and location of the Final Approval Hearing; (c) the right
22 of any Class Member to object to the proposed settlement, and an explanation of the procedures to
23 exercise that right; (d) the right of any class member to exclude themselves from the proposed
24 settlement, and an explanation of the procedures to exercise that right; and (e) an explanation of the
25 procedures for class members to participate in the proposed settlement.

26 The Court, upon notice having been given as required in the Preliminary Approval Order, and
27 having considered the proposed Settlement Agreement as well as all papers filed, hereby ORDERS
28 AND ENTERS JUDGMENT AS FOLLOWS:

[PROPOSED] JUDGMENT AND ORDER GRANTING FINAL APPROVAL OF CLASS ACTION
SETTLEMENT

1 1. This Court has jurisdiction over the subject matter of the action and over the Parties,
2 including all members of the settlement class.

3 2. The Court finds that the class is properly certified as a class for settlement purposes
4 only.

5 3. The notice provided to the class members conforms with the requirements of
6 California Code of Civil Procedure section 382, California Civil Code section 1781, California Rules
7 of Court 3.766 and 3.769, the California and United States Constitutions, and any other applicable
8 law, and constitutes the best notice practicable under the circumstances, by providing individual
9 notice to all class members who could be identified through reasonable effort, and by providing due
10 and adequate notice of the proceedings and of the matters set forth therein to the other class members.
11 The notice fully satisfied the requirements of due process.

12 4. The Court finds the settlement was entered into in good faith, that the settlement is
13 fair, reasonable and adequate, and that the settlement satisfies the standards and applicable
14 requirements for final approval of this class action settlement under California law, including the
15 provisions of California Code of Civil Procedure section 382 and California Rules of Court, Rule
16 3.769.

17 5. The Settlement Agreement is not an admission by Defendant The Men's Wearhouse,
18 Inc. or by any other released party, nor is this Order a finding of the validity of any allegations or of
19 any wrongdoing by Defendant or any other released party. Neither this Order, the Settlement
20 Agreement, nor any document referred to herein, nor any action taken to carry out the Settlement
21 Agreement, may be construed as, or may be used as, an admission of any fault, wrongdoing, omission,
22 concession, or liability whatsoever by or against Defendant or any of the other released parties.

23 6. No Class Members have objected to the terms of the Settlement.

24 7. The settlement administrator has identified the following employee who has timely
25 requested exclusion from the Settlement and has thus been excluded from the class, is not a class
26 member, and is not bound by the Judgment or release in this Action: Willie C. Wayman.

27 8. Upon entry of this Order, compensation to the class members shall be paid pursuant
28 to the terms of the settlement agreement.

1 9. Following 180 days from the date of issuance of the settlement checks, any uncashed
2 checks shall be distributed in the class member's name to the Controller of the State of California to
3 be held pursuant to the Unclaimed Property Law for the benefit of the class member until they claim
4 their property.

5 10. In addition to any recovery that Plaintiff may receive under the Settlement, and in
6 recognition of the Plaintiff's efforts on behalf of the settlement class, the Court hereby approves the
7 payment of an incentive award to the Plaintiff, in the amount of ~~\$8,900~~ ^{\$5,000}.

8 11. The Court approves the payment of attorneys' fees to Class Counsel in the sum of
9 \$321,750.40, and the reimbursement of litigation expenses in the sum of \$9,307.68. Plaintiff has
10 agreed that \$1,370.40 of these costs are payable to CPT Group, Inc. for providing notice to the Class
11 of Judgment pursuant to California Rules of Court Rule 3.771(b), a procedure which was not provided
12 for in the request for administration costs. The request for attorneys' fees and costs are reasonable
13 amounts. The reasonableness of the fee award is determined based on a reasonable percentage of a
14 common fund obtained for the class. The court also has considered the lodestar amount. Awarding
15 fees on a percentage basis encourages efficient litigation practices and reflects the actual benefit
16 obtained for the class.

17 12. The Court approves and orders payment in the amount of \$30,000 to CPT Group, Inc.
18 for performance of settlement administration services.

19 13. The Court approves and orders payment in the amount of \$18,750 to the Labor
20 Workforce and Development Agency as 75% of the payment allocated toward PAGA penalties. ^{\$25,000}

21 14. The Parties are ordered to give notice of the judgment to all Class Members in
22 accordance with CRC 3.771(b).

23 15. Upon the Effective Date, the Plaintiff and all members of the class, shall have, by
24 operation of this Order and the accompanying Judgment, fully, finally and forever released,
25 relinquished, and discharged Defendant and the released parties from all claims as defined by the
26 terms of the approved settlement.

27 16. This Court shall retain jurisdiction with respect to all matters related to the
28 administration and consummation of the settlement, and any and all claims, asserted in, arising out

1 of, or related to the subject matter of the lawsuit, including but not limited to all matters related to the
2 settlement and the determination of all controversies relating thereto.

3 17. The claims administrator shall file a final report by 8/7/19.

4 18. A non-appearance case review is set for 8/14/19th 8:30 am
5 OSC re compliance with settlement

6 **IT IS SO ORDERED.**

7 Dated: 11/20/18

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9 Honorable Elihu M. Berle, Department 6

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am an employee in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 8889 W. Olympic Blvd., Suite 200. Beverly Hills, California 90211.

On November 7, 2018, I served the foregoing document, described as: "[AMENDED PROPOSED] JUDGMENT AND ORDER GRANTING PLAINTIFF'S MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT" on all interested parties in this action by placing a true copy thereof in a sealed envelope, addressed as follows:

Counsel for Defendant

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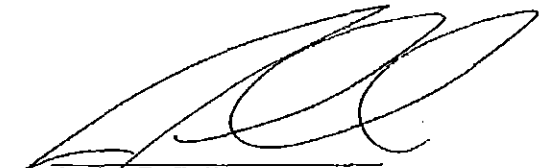
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Adam J. Rocco, Esq.
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(BY ELECTRONIC SERVICE) Pursuant to California Rules of Court Rule 2.251, Code of Civil Procedure Section 1010.6, and the Court Order Authorizing Electronic Service, I sent such document via use of CASE ANYWHERE.

I declare, under penalty of perjury under the laws of the State of California, that the above is true and correct.

Date: November 7, 2018


Jordan D. Bello