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7 MARIA ELENA DIAZ HERNANDEZ, and all others similarly situated

(Additional attorneys for Plaintiff(s) on following page)

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **FOR THE COUNTY OF SACRAMENTO**

10 *(UNLIMITED JURISDICTION)*

11  
12 MARIA ELENA DIAZ HERNANDEZ, on  
13 behalf of herself and all others similarly situated,  
and the general public,

14 *Plaintiff(s),*

15 vs.

16  
17 GUITRON ALCAZAR ALCAZAR INC., a  
18 California corporation doing business as El  
19 Tapatio Mexican Cuisine; GUITRON  
20 ALCAZAR III, INC, a California corporation;  
21 GUITRON ALCAZAR IV, LLC, a California  
22 limited liability company; and DOES 3-50,  
inclusive,

23 *Defendant(s).*

Case No.: 34-2021-00306648

**~~PROPOSED~~ FINAL ORDER AND  
JUDGMENT APPROVING CLASS  
SETTLEMENT**

**Hearing Information**

Action filed: 8/23/2021  
Hearing Date: 8/16/2024  
Hearing Time: 9:00 a.m.  
Hearing Dept: 22, The Honorable Lauri  
A. Damrell

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**FILED**  
Superior Court of California  
County of Sacramento  
08/16/2024  
V. Aleman, Deputy

**ADDITIONAL ATTORNEYS FOR PLAINTIFF(S)**

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1 This matter came on for hearing on August 16, 2024 at 9:00 a.m. in Department 22 of  
2 the above-captioned court on Plaintiff's Motion for Final Approval of a Class Action Settlement  
3 pursuant to California Rules of Court, Rule 3.769, as set forth in the Class Action and PAGA  
4 Settlement Agreement and Class Notice (the "Settlement") filed herewith which provides for a  
5 Gross Settlement Amount ("GSA") of \$685,000.00 in compromise of all disputed claims on  
6 behalf of current and former cook employees employed by Defendants Guitron Alcazar Alcazar  
7 Inc. dba El Tapatio Mexican Cuisine, Guitron Alcazar III Inc., and Guitron Alcazar IV, LLC  
8 (collectively "Defendants") who worked in California during the Class Period. All capitalized  
9 terms used herein shall have the same meaning as defined in the Settlement.

10 In accordance with the Court's prior ruling granting Preliminary Approval of Class  
11 Action Settlement, Class Members have been given notice of the terms of the Settlement and the  
12 opportunity to request exclusion, comment upon or object to it or to any of its terms. Having  
13 received and considered the Settlement, the supporting papers filed by the Parties, and the  
14 evidence and argument received by the Court in conjunction with the motions for preliminary  
15 and final approval of the Settlement, the Court grants final approval of the Settlement and  
16 **HEREBY ORDERS, ADJUDGES, DECREES AND MAKES THE FOLLOWING**  
17 **DETERMINATIONS:**

18 1. The Court has jurisdiction over the subject matter of the Action and over all  
19 Parties to the Action, including all Class Members who did not request to be excluded from the  
20 Settlement. Pursuant to this Court's ruling granting the Motion for Preliminary Approval of Class  
21 Action Settlement of April 11, 2024, the Class Notice was sent to each Class Member by First  
22 Class U.S. mail. The Class Notice informed Class Members of the terms of the Settlement, their  
23 right to receive their proportional share of the Settlement, their right to request exclusion, their  
24 right to comment upon or object to the Settlement, and their right to appear in person or by  
25 counsel at the final approval hearing and be heard regarding final approval of the Settlement.  
26 Adequate periods of time were provided by each of these procedures. No member of the Class  
27 presented written objections to the proposed Settlement as part of this notice process, stated an  
28 intention to appear, or actually appeared at the final approval hearing.



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1           2.       For purposes of this Settlement, the “Settlement Class” or “Class Members”  
2 consists of all persons employed by Defendants in California and classified as non-exempt,  
3 hourly employees who worked for Defendants during the Class Period. As a result of the escalator  
4 provision in the Settlement, the “Class Period” means the period of time from August 23, 2017  
5 through November 10, 2023 (instead of the preliminary approval order date of April 11, 2024).  
6 Settlement, ¶ I.B.

7           3.       The Court finds and determines that the notice procedure afforded adequate  
8 protections to Class Members and provides the basis for the Court to make an informed decision  
9 regarding final approval of the Settlement based on the responses of Class Members. The Court  
10 finds and determines that the notice provided in this case was the best notice practicable, which  
11 satisfied the requirements of law and due process as to all persons entitled to such notice.

12           4.       **Release by Plaintiff and Class Members.** Effective on the date when Defendants  
13 fully fund the entire Gross Settlement Amount and funds all employer payroll taxes owed on the  
14 Wage Portion of the Individual Class Payments, Plaintiff, Class Members, and Class Counsel  
15 will release claims against all Released Parties as follows:

16           Plaintiff and her respective former and present spouses, representatives, agents,  
17 attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released  
18 Parties from all claims, transactions, or occurrences that occurred during the Class Period,  
19 including, but not limited to: (a) all claims that were, or reasonably could have been, alleged,  
20 based on the facts contained, in the Operative Complaint and (b) all PAGA claims that were, or  
21 reasonably could have been, alleged based on facts contained in the Operative Complaint,  
22 Plaintiff’s PAGA Notice, or ascertained during the Action and released under 6.2, below  
23 (“Plaintiff’s Releases.”) Plaintiff’s Releases do not extend to any claims or actions to enforce this  
24 Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits,  
25 social security benefits, workers’ compensation benefits that arose at any time, or based on  
26 occurrences outside the Class Period. Plaintiff acknowledges that she may discover facts or law  
27 different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true  
28 but agrees, nonetheless, that Plaintiff’s Release shall be and remain effective in all respects,



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1 notwithstanding such different or additional facts or her discovery of them.

2 For purposes of Plaintiff's Release, Plaintiff expressly waives and relinquishes the  
3 provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

4 A general release does not extend to claims that the creditor or releasing party does not  
5 know or suspect to exist in his or her favor at the time of executing the release, and that if known  
6 by him or her would have materially affected his or her settlement with the debtor or Released  
7 Party.

8 All Participating Class Members, on behalf of themselves and their respective former and  
9 present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release  
10 Released Parties from (i) all claims that were alleged, or reasonably could have been alleged,  
11 based on the Class Period facts stated in the Operative Complaint and ascertained in the course  
12 of the Action including, failure to provide meal periods, failure to authorize and permit rest  
13 periods, failure to issue proper wage statements, failure to timely pay wages, failure to maintain  
14 required payroll records, and related allegations. Except as set forth in Section 6.3 of this  
15 Agreement, Participating Class Members do not release any other claims, including claims for  
16 vested benefits, wrongful termination, violation of the Fair Employment and Housing Act,  
17 unemployment insurance, disability, social security, workers' compensation, or claims based on  
18 facts occurring outside the Class Period.

19 All Non-Participating Class Members who are Aggrieved Employees are deemed to  
20 release, on behalf of themselves and their respective former and present representatives, agents,  
21 attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for  
22 PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA  
23 Period facts stated in the Operative Complaint and the PAGA Notice and ascertained in the course  
24 of the Action including, failure to provide meal periods, failure to authorize and permit rest  
25 periods, failure to issue proper wage statements, failure to timely pay wages, failure to maintain  
26 required payroll records, and related claims. Settlement, paragraph 6.

27 5. The Court further finds and determines that the terms of the Settlement are fair,  
28 reasonable and adequate, that the Settlement is ordered finally approved, and that all terms and



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1 provisions of the Settlement, including the release of claims contained therein, should be and  
 2 hereby are ordered to be consummated, and directs the Parties to effectuate the Settlement  
 3 according to its terms. As of the Effective Date of Settlement, and for the duration of the Class  
 4 Period, all Class Members are hereby deemed to have waived and released all Released Claims  
 5 and are forever barred and enjoined from prosecuting the Released Claims against the Releasees  
 6 as fully set forth in the Settlement. No objections were received by the Parties or the Court  
 7 through the date of this Final Order and Judgment. The Court finds that \_\_\_\_\_ Class  
 8 Member(s) - \_\_\_\_\_ - submitted a request for exclusion from the Settlement as determined  
 9 by the Administrator ~~and therefore is/are not in the Settlement Class.~~

10 6. The Court finds and determines that (a) the Individual Class Payment to be paid  
 11 to Participating Class Members and (b) the \$3,000.00 payment to the LWDA for the PAGA  
 12 penalty under the California Labor Code Private Attorneys General Act of 2004, as amended,  
 13 California Labor Code sections 2699 et seq., as provided for by the Settlement are fair and  
 14 reasonable. The Court hereby grants final approval to, and orders the payment of, those amounts  
 15 be made to the Participating Class Members and to the California Labor & Workforce  
 16 Development Agency, in accordance with the terms of the Settlement.

17 7. The Court further grants final approval to and orders that the following payments  
 18 be made in accordance with the terms of the Settlement:

19 a. A Class Counsel Fees Payment in the amount of \$228,333.30 for  
 20 attorney's fees and a Class Counsel Litigation Expenses Payment in the amount of \$10,815.88 to  
 21 Class Counsel;

22 b. ~~\$15,000.00~~ <sup>\$15,000.00</sup> as a Class Representative Service Payment payable to Plaintiff  
 23 Maria Elena Diaz Hernandez for her service as the class representative;

24 c. ~~\$12,250.00~~ <sup>\$12,250.00</sup> in Administrator's fees payable to CPT Group, Inc. for its  
 25 services as the Administrator;

26 d. Payment of \$3,000.00 (75% of the \$4,000.00 PAGA penalty) to the  
 27 LWDA; and

28 e. Employer-side payroll taxes (to be paid in addition to the Gross Settlement



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1 and this Final Order and Judgment.

2 14. The Parties are hereby ordered to comply with the terms of the Settlement.

3 15. The Parties shall bear their own costs and attorneys' fees except as otherwise  
4 provided by the Settlement and this Final Order and Judgment.

5 16. The Settlement is not an admission by Defendants nor is this Final Order and  
6 Judgment a finding of the validity of any claims in the Action or of any wrongdoing by  
7 Defendants. Furthermore, the Settlement is not a concession by Defendants and shall not be used  
8 as an admission of any fault, omission, or wrongdoing by Defendants. Neither this Final Order  
9 and Judgment, Settlement, any document referred to herein, any exhibit to any document referred  
10 to herein, any action taken to carry out the Settlement, nor any negotiations or proceedings related  
11 to the Settlement are to be construed as, or deemed to be evidence of, or an admission or  
12 concession with regard to, the denials or defenses of Defendants, and shall not be offered in  
13 evidence in any proceeding against the Parties hereto in any Court, administrative agency, or  
14 other tribunal for any purpose whatsoever other than to enforce the provisions of this Final Order  
15 and Judgment. This Final Order and Judgment, the Settlement and exhibits thereto, and any other  
16 papers and records on file in the Action may be filed in this Court or in any other litigation as  
17 evidence of the settlement by Defendants to support a defense of res judicata, collateral estoppel,  
18 release, or other theory of claim or issue preclusion or similar defense as to the Released Class  
19 Claims and the Released PAGA Claims.

20 17. This document shall constitute a Judgment for purposes of California Rule of  
21 Court 3.769(h).

22 **IT IS SO ORDERED, ADJUDGED AND DECREED.**

23  
24 Date: \_\_\_\_\_



25  
26 **THE HONORABLE LAURI A. DAMRELL**  
**JUDGE OF THE SUPERIOR COURT**



27  
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