

1 **AIMAN-SMITH & MARCY**
PROFESSIONAL CORPORATION

2 Randall B. Aiman-Smith #124599
3 Reed W.L. Marcy #191531
4 Hallie Von Rock #233152
5 Brent A. Robinson #289373
6 7677 Oakport St. Suite 1150
7 Oakland, CA 94621
8 T 510.817.2711
9 F 510.562.6830
10 ras@asmlawyers.com
11 rwlm@asmlawyers.com
12 hvr@asmlawyers.com
13 bar@asmlawyers.com

14 Attorneys for Plaintiff Mohammed Rahman

15 **Additional counsel listed on following page

16 UNITED STATES DISTRICT COURT
17 FOR THE NORTHERN DISTRICT OF CALIFORNIA

18 MOHAMMED RAHMAN, ALICIA)
19 NOEMI BAUTISTA DIAZ, AND)
20 PASCAL MOORE, individually and on)
21 behalf of all others similarly situated,)

22 Plaintiffs,)

23 v.)

24 GATE GOURMET, INC.,)
25 GATEGROUP U.S. HOLDING, INC.,)
26 and DOES 1-10, inclusive,)

27 Defendants.)

Case No. 3:20-cv-03047-WHO

[PROPOSED] ORDER GRANTING MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT AS AMENDED.

Date: September 28, 2022
Time: 2:00 PM

Hon. William H. Orrick
Courtroom 2, 17th Floor
San Francisco Courthouse
450 Golden Gate Avenue
San Francisco, CA 94102

Action Filed May 4, 2020

1 KANE MOON (SBN 249834)
ALLEN FEGHALI (SBN 301080)
2 LILIT TER-ASTVATSATRYAN (SBN 320389)
3 MOON & YANG, APC
1055 W. Seventh St., Suite 1880
4 Los Angeles, CA 90017
5 T: 213.232.3128
F: 213.232.3125
6 kane.moon@moonyanglaw.com
7 allen.feghali@moonyanglaw.com
lilit@moonyanglaw.com

8 Attorneys for Plaintiff Alicia Noemi Bautista Diaz
9

10 JOSEPH LAVI (SBN 209776)
VINCENT C. GRANBERRY. (SBN 276483)
11 MELISSA A. HUETHER. (SBN 316604)
LAVI & EBRAHIMIAN, LLP
12 8889 W. Olympic Blvd., Suite 200
13 Beverly Hills, California 90211
Telephone: (310) 432-0000
14 Facsimile: (310) 432-0001
15 jlavi@lelawfirm.com
vgranberry@lelawfirm.com
16 mhuetter@lelawfirm.com

17 Attorneys for Plaintiff Pascal Moore
18
19
20
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1 **[PROPOSED] ORDER GRANTING MOTION FOR PRELIMINARY APPROVAL OF**
2 **CLASS ACTION AND PAGA SETTLEMENT**

3 WHEREAS, a proposed class and Private Attorneys General Act (“PAGA”) action is
4 pending before the Court entitled Mohammed Rahman, et al. v. Gate Gourmet, Inc., et al., No.
5 4:20-cv-03047-WHO;

6 WHEREAS, Plaintiffs Mohammed Rahman, Alicia Noemi Bautista Diaz, and Pascal
7 Moore (“Plaintiffs”) and Defendants Gate Gourmet, Inc. and gategroup U.S. Holding, Inc.
8 (collectively “Defendants” or “Gate Gourmet”) (collectively, the “Parties”), have entered into a
9 Settlement Agreement and Release (the “Settlement Agreement” or the “Settlement,” attached
10 as **Exhibit 1** to the accompanying Declaration of Hallie Von Rock); and

11 WHEREAS, the Court has considered all papers submitted on Plaintiffs’ Motion for
12 Preliminary Approval of Class Action and PAGA Settlement, including the Settlement
13 Agreement and all exhibits attached thereto, records and prior proceedings to date in this
14 matter, and good cause appearing based on the record,

15 **IT IS HEREBY ORDERED, DECREED, AND ADJUDGED as follows:**

16 1. The Parties have agreed to settle and enter into a Judgment resolving this Action
17 in accordance with the terms and conditions of the Settlement Agreement. The definitions in
18 the Settlement Agreement are hereby incorporated herein as though fully set forth in this
19 Order, and all other terms and phrases in this Order shall have the same meaning as ascribed to
20 them in the Settlement Agreement.

21 2. The Court finds that, subject to the Final Approval Hearing, the Settlement
22 Agreement, including all exhibits thereto, is preliminarily approved as fair, reasonable, and
23 adequate, and in the best interests of the Settlement Class set forth below. The Court further
24 finds that the Settlement Agreement substantially fulfills the purposes and objectives of the
25 class and PAGA action, and provides substantial relief to the Settlement Class without the
26 risks, burdens, costs, or delay associated with continued litigation, trial, and/or appeal. The
27 Settlement is not a finding or admission of liability by the Defendants or any other person, nor
28 a finding of the validity of any claims asserted in the Action or of any wrongdoing or any

1 violation of law.

2 3. Plaintiffs, by and through their counsel, have investigated the pertinent facts and
3 have evaluated the risks associated with continued litigation, trial and/or appeal. The Court
4 preliminarily finds that the Settlement Agreement: (a) is the result of arm's-length negotiations
5 between the parties and experienced counsel; (b) is sufficient to warrant notice of the
6 settlement and the Final Approval Hearing to be disseminated to the Settlement Class; (c)
7 meets all applicable requirements of law, including Federal Rule of Civil Procedure 23.

8 **Conditional Certification of the Settlement Class**

9 4. For purposes of settlement only: (a) the law firms of Aiman-Smith & Marcy,
10 Moon & Yang, APC, and Lavi & Ebrahimian, LLP, are appointed Class Counsel for the
11 Settlement Class; and (b) Plaintiffs Mohammed Rahman, Alicia Noemi Bautista Diaz, and
12 Pascal Moore are appointed Class Representatives. The Court finds that these attorneys are
13 competent and capable of exercising the responsibilities of Class Counsel and that Plaintiffs
14 will adequately protect the interests of the Settlement Class defined below.

15 5. For purposes of settlement only and for purposes of disseminating Class Notice,
16 and without prejudice to Defendants' right to contest class certification if the Settlement
17 Agreement is not finally approved, the Court conditionally certifies the following Settlement
18 Class as defined in the Settlement Agreement: All individuals employed at any Gate Gourmet
19 facility in California as a non-exempt employee at any time from May 4, 2016 through the date
20 of this Order granting preliminary approval of the settlement.

21 6. The Court preliminarily finds, subject to the Final Approval Hearing, that the
22 Settlement Agreement is fundamentally fair, adequate, and reasonable, and, solely within the
23 context of and for the purposes of settlement only, that the Settlement Class appears to satisfy
24 satisfies the requirements of Rule 23 of the Federal Rules of Civil Procedure, and specifically,
25 that: the Settlement Class is so numerous that joinder of all members is impracticable; there are
26 questions of fact and law common to the Settlement Class; the claims of the Class
27 Representatives are typical of the claims of the members of the Settlement Class; the Class
28 Representatives and Class Counsel will fairly and adequately protect the interests of the

1 members of the Settlement Class; common questions of law or fact predominate over questions
2 affecting individual members; and a class action is a superior method for fairly and efficiently
3 adjudicating the Action.

4 7. If the Settlement Agreement does not receive the Court's final approval, or if
5 final approval is reversed on appeal, or if the Settlement Agreement is terminated or otherwise
6 fails to become effective, the Court's conditional grant of class certification shall be vacated,
7 null, and void in all respects, and the Class Representative and the Settlement Class will once
8 again bear the burden of establishing the propriety of class certification for purposes of
9 litigation. In such case, neither the conditional certification of the Settlement Class for
10 settlement purposes, nor any other act relating to the negotiation or execution of the Settlement
11 Agreement shall be considered as a factor in connection with any class certification issue(s).

12 **Notice and Administration**

13 8. The Court approves with the edits identified during the preliminary approval
14 hearing, as to the form, content, and distribution, the Notice Plan set forth in the Settlement
15 Agreement, including the Notice to the Settlement Class as set forth in the Settlement
16 Agreement and Exhibits A and B, and finds that such Notice is reasonable and the best notice
17 practicable under the circumstances, and that the Notice complies fully with the requirements
18 of the Federal Rules of Civil Procedure. The Court also finds that the Notice constitutes valid,
19 due and sufficient notice to all persons entitled thereto, and meets the requirements of Due
20 Process. The Court further finds that the Notice is reasonably calculated to, under all
21 circumstances, reasonably apprise members of the Settlement Class of the pendency of this
22 action, the terms of the Settlement Agreement, and the right to object to the settlement and to
23 exclude themselves from the Settlement Class. In addition, the Court finds that no notice other
24 than that specifically identified in the Settlement Agreement is necessary in this Action. The
25 Parties, by agreement, may revise the Notice in ways that are not material, or in ways that are
26 appropriate to update those documents for purposes of accuracy or formatting.

27 9. The Court approves the request for the appointment of Atticus Administration
28 ("Atticus") as Settlement Administrator of the Settlement Agreement.

1 10. Pursuant to paragraph 30 of the Settlement Agreement, the Settlement
2 Administrator is directed to publish the Notice on the Settlement Website and to send direct
3 notice by email and U.S. Mail in accordance with the Notice Plan called for by the Settlement
4 Agreement. The Settlement Administrator shall also maintain the Settlement Website to
5 provide full information about the Settlement and allow for the filing of claims online. The
6 Settlement Website shall prominently display all Settlement deadlines for Settlement Class
7 Members as well as notify the Settlement Class of how to object to the Settlement Agreement
8 and request exclusion from the Class and appear at the Settlement Hearing.

9 **Submission of Requests for Exclusion from Settlement Class**

10 11. Any person falling within the definition of the Settlement Class may, upon valid
11 and timely request, exclude themselves or “opt out” from the Settlement Class. Any such
12 person may do so if, on or before the Objection/Exclusion Deadline [60 days after mailing
13 Notice], they comply with the exclusion procedures set forth in the Settlement Agreement and
14 Notice. Any Settlement Class Members so excluded shall neither be bound by the terms of the
15 Settlement Agreement nor entitled to any of its benefits.

16 12. Any members of the Settlement Class who elect to exclude themselves or “opt
17 out” of the Settlement Agreement must file a written request with the Settlement
18 Administrator, received or postmarked no later than the Objection/Exclusion Deadline [60 days
19 after mailing Notice]. The request for exclusion must comply with the exclusion procedures
20 set forth in the Settlement Agreement and Notice. However, members of the Settlement Class
21 who fail to submit a valid and timely request for exclusion shall be bound by all terms of the
22 Settlement Agreement and the Final Judgment, regardless of whether they have requested
23 exclusion from the Settlement Agreement or received any benefit or award from the settlement.

24 **Submission of Requests for Objection from Settlement Class**

25 13. Any person falling within the definition of the Settlement Class who does not
26 submit a timely Request for Exclusion shall be permitted to object to the Settlement before
27 Final Approval. To object, a Settlement Class Member must do so on or before the
28 Objection/Exclusion Deadline [60 days after mailing Notice].

1 14. ~~Such objection shall not be valid unless it includes the information specified in~~
2 ~~the Settlement Notice. The statement must be signed personally by the objector, and shall state~~
3 ~~each specific objection and any legal and factual support for each objection. The objection~~
4 ~~must also state the Settlement Class Member's full name, address, the dates of his/her~~
5 ~~employment at Gate Gourmet, and whether the objector intends to appear at the final approval~~
6 ~~hearing.~~

7 15. If the Court rejects the Settlement Class Member's objection, the Settlement
8 Class Member will still be bound by the terms of the Settlement Agreement, including the
9 release.

10 **Final Approval Hearing**

11 16. The Final Approval Hearing shall be held before this Court on January 25, 2023,
12 at 2:00 p.m.in Courtroom 2, 17th Floor, at the San Francisco United States Courthouse, 450
13 Golden Gate Avenue, San Francisco, California, to determine: (a) whether the proposed
14 settlement of the Action on the terms and conditions provided for in the Settlement Agreement
15 (including as it may be modified prior to the Final Hearing date) is fair, reasonable, and
16 adequate and should be given final approval by the Court; (b) whether a judgment and order of
17 dismissal with prejudice should be entered; (c) whether to approve the Fee and Costs Award to
18 Class Counsel; and (d) whether to approve the payment of the incentive awards to the Class
19 Representatives. The Court may adjourn the Final Approval Hearing without further notice to
20 members of the Settlement Class. The new date of Hearing, if any, shall be published on the
21 Court's docket and on the Settlement Website.

22 17. Class Counsel shall file papers in support of their Motion for Final Approval, and
23 their Motion for Fees and Costs Award and Class Representative's incentive award in
24 accordance with Local Rule 7-2, except that the Motion for Fees and Costs Award shall be
25 filed at least 35 days before the deadline for objections.

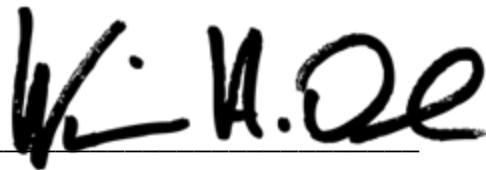
26 **Further Matters**

27 18. All further proceedings in the Action are ordered stayed until Final Judgment or
28 termination of the Settlement Agreement, whichever occurs earlier, except for those matters

1 necessary to obtain and/or effectuate final approval of the Settlement Agreement.
2 Additionally, pending this Court's determination as to whether to finally approve the
3 Settlement, the Court hereby prohibits and/or enjoins any other person, entity or counsel (other
4 than successful opt-outs to this Settlement) from representing or from commencing,
5 prosecuting, participating in or assisting in any lawsuit or proceeding against the Released
6 Parties on any matters within the scope of the Released Claims.

7 19. The Court retains jurisdiction to consider all further applications arising out of or
8 connected with the proposed Settlement Agreement. The Court may approve the Settlement,
9 with such modifications as may be agreed to by the Parties, if appropriate, without further
10 notice to the Class.

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12 Dated: October 3, 2022



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15 William H. Orrick

16 United States District Judge
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