

1 Neal J. Fialkow (State Bar No. 74385)  
2 nfialkow@pacbell.net  
3 James S. Cahill (State Bar No. 70353)  
4 jscahillaw@aol.com  
5 LAW OFFICES OF NEAL J. FIALKOW, INC.  
6 215 North Marengo Avenue, Third Floor  
7 Pasadena, California 91 1 01  
8 Telephone: (626) 584-6060  
9 Facsimile: (626) 584-2950

FILED  
SECTION 11.22 OF CALIFORNIA  
COUNTY OF SAN BERNARDINO  
SAN BERNARDINO COUNTY

FEB 19 2021

7 Attorneys for Plaintiff Francisco Gonzalez Martinez,  
8 and on behalf of all others similarly situated

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
10 **FOR THE COUNTY OF SAN BERNARDINO**  
11 **JUSTICE CENTER**

11 FRANCISCO GONZALEZ MARTINEZ,  
12 individually and on behalf of all others  
13 similarly situated,

14 Plaintiff,

16 vs.

17  
18 RGH ENTERPRISES, INC. Doing Business  
19 in California as HHI ENTERPRISE, INC.  
20 and DOES 1 through 30, inclusive,

21 Defendants.

Lead Case No. CIVDS1907640 (Consolidated  
with Case No. CIVDS1907427 for Discovery  
Only) – Coordinated for Settlement Purposes  
Only

CLASS ACTION

Assigned for all purposes to Hon. David Cohn,  
Dept. S-26

[PROPOSED] ORDER GRANTING  
PLAINTIFF'S MOTION FOR PRELIMINARY  
APPROVAL OF CLASS AND  
REPRESENTATIVE ACTIONS  
SETTLEMENT

Hearing Date: February 19, 2021

Time: 8:30 A.M.

Dept.: S-26

Complaint Filed: March 12, 2019

Trial Date: None Set

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[PROPOSED] ORDER GRANTING PLAINTIFF'S MOTION FOR  
PRELIMINARY APPROVAL OF CLASS AND REPRESENTATIVE ACTIONS  
SETTLEMENT

1 FRANCISCO GONZALEZ MARTINEZ,  
2 and on behalf of all other similarly  
3 aggrieved employees,

4 Plaintiff,

5 vs.

6 RGH ENTERPRISES, INC. HHI  
7 ENTERPRISES, INC. and DOES 1  
8 through 30, Inclusive,

9 Defendants.

Case No. CIVDS1907427

Assigned for all purposes to Hon David  
Cohn, Dept. S-26

Complaint Filed: March 8, 2019

Trial Date: None Set

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[PROPOSED] ORDER GRANTING PLAINTIFF'S MOTION FOR  
PRELIMINARY APPROVAL OF CLASS AND REPRESENTATIVE ACTIONS  
SETTLEMENT

1           Plaintiffs' unopposed Motion for Preliminary Approval of Class and Representative  
2 Actions Settlement ("Motion") came before this Court on February 19, 2021 at 8:30 a.m. in  
3 the matters entitled *Francisco Gonzalez Martinez et al. v. RGH Enterprises, Inc. Doing*  
4 *Business in California as HHI Enterprise, Inc. et al.* Case CIVDS1907640 ("Class Action"),  
5 and *Francisco Gonzalez Martinez et al. v. RGH Enterprises, Inc.* Case No CIVDS1907427  
6 ("California Private Attorneys General Act of 2004 Action" or "PAGA Action"). The Court  
7 having fully reviewed the Motion and supporting declarations, including the Stipulation and  
8 Settlement of Class and Representative Actions ("Settlement Agreement") attached to the  
9 Declaration of Neal J. Fialkow as Exhibit 1, the Notice of Class Action Settlement ("Class  
10 Notice") and the Information Sheet which are marked as Exhibits A and B and attached to  
11 the Settlement Agreement (sometimes collectively the "Notice Packet"), and for good cause  
12 appearing,

13 THE COURT HEREBY ORDERS as follows:

14           1.       The Court GRANTS the Motion and preliminarily approves the proposed  
15 Settlement of the Class and PAGA Actions as set forth in the Settlement Agreement. The  
16 Court finds that the proposed Settlement is within the range of reasonableness of a  
17 settlement that could be approved by the Court at the Final Approval Hearing. The Court has  
18 reviewed the Settlement with a Maximum Settlement Amount of \$1,750,000.00 and  
19 preliminarily finds the Settlement to be fair, adequate and reasonable as to all Class  
20 Members and those affected by the PAGA Action (including Aggrieved Employees and the  
21 California Labor & Workforce Development Agency) when balanced against the probable  
22 outcome of further litigation relating to certification, liability, damage and penalty issues. It  
23 also appears that adequate investigation, research and court proceedings have been  
24 conducted so that counsel for the Parties are able to reasonably evaluate their respective  
25 positions. It appears to the Court that settlement at this time will avoid substantial additional  
26 costs by all Parties, as well as avoid the delay and risks that would be presented by the  
27 further prosecution of the Class and PAGA Actions. It also appears that the Settlement has  
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1 been reached as a result of arms-length negotiations. The Court finds that it is appropriate to  
2 notify Class Members about the terms of the proposed Settlement.

3 2. The Court finds that for settlement purposes only the Class meets the  
4 requirements for certification under Code Civ. Proc. §382: namely, it is ascertainable and  
5 numerous; there is a sufficiently well-defined community of interest among the Class  
6 Members in questions of law and fact which predominate over individual issues; the claims  
7 of Plaintiff are typical of other Class Members; Plaintiff and Class Counsel will fairly and  
8 adequately protect the interests of members of the Class; and a class-wide settlement is  
9 superior to other available methods for resolving the Action.

10 3. For settlement purposes only, the Court GRANTS conditional certification of the  
11 following Class:

12 All non-exempt employees who worked for Defendant RGH Enterprises, Inc.  
13 dba HHI Enterprises, Inc. in California during the period from March 12,  
14 2015 up to the earlier of December 17, 2020 or the date a signed order  
15 preliminarily approving the Settlement is filed.

16 4. Should for whatever reason the Settlement Agreement and Judgment not  
17 become final, the fact that the Parties were willing to stipulate to certification of a Class as  
18 part of the Settlement shall have no bearing on, or be admissible in connection with, the  
19 issue of whether a class should be certified in a non-settlement context and both matters will  
20 no longer be coordinated for settlement purposes only.

21 5. For settlement purposes only, the Court appoints: (a) Plaintiff Francisco  
22 Gonzalez Martinez as the Class Representative; and (b) Neal J. Fialkow of the Law Office  
23 of Neal J. Fialkow, Inc. as Class Counsel for the Class.

24 6. The Court appoints Phoenix Class Action Administration Solutions as the  
25 Claims Administrator for the purpose of administering the Settlement.

26 7. A Final Approval Hearing is scheduled for  
27 4/25/, 2021 at 10:00 am in Department S-26  
28 of the Superior Court of California for San Bernardino County located at 247 West 3<sup>rd</sup>

1 Street, San Bernardino, California 92401. At the Final Approval Hearing the Court will  
2 determine: (a) whether the Settlement provided for in the Settlement Agreement should be  
3 finally approved as fair, reasonable and adequate; (b) whether a Judgment should be entered;  
4 and (c) whether Plaintiff's motion for Class Counsel's fees and costs, Class Representative's  
5 enhancement award to Plaintiff and Claim Administrator's costs should be granted. All  
6 papers in support of the motion for final approval and motion for attorneys' fees and costs,  
7 administration costs and enhancement award are to be filed with the Court and served on all  
8 counsel no later than 21 calendar days before the Final Approval Hearing.

9       8.       The Court approves, as to form and content, the Class Notice and Information  
10 Sheet which are marked as Exhibits A and B and attached to this Order. The Information  
11 Sheet sent to each Class Member states the total number of work weeks, the calculation of  
12 the Individual Settlement Payment and how to dispute the number of work weeks. The Court  
13 finds that the Class Notice satisfies Cal. Rules of Court, rules 3.766(d) and 3.769(f) by fully  
14 and accurately explaining to the Class the Actions, all material Settlement terms, a Class  
15 Member's right to be excluded from the Settlement by submitting a Request for Exclusion,  
16 or object and the procedures and deadlines to do so and notice of the Final Approval  
17 Hearing;

18       9.       The Court approves distribution to Class Members of the Notice Packet  
19 containing the Class Notice and Information Sheet in the manner stated in the Settlement  
20 Agreement. The Court finds that this distribution plan meets the requirements of due  
21 process, is the best notice practicable under the circumstances and constitutes due and  
22 sufficient notice to all persons entitled thereto. Both the Class Notice and Information Sheet  
23 are to be translated into Spanish and both Spanish and English versions are to be distributed  
24 to each Class Member.

25       10.       Within fourteen (14) calendar days after the Court enters this Order  
26 preliminarily approving the Settlement, Defendant RGH Enterprises, Inc. dba HHI  
27 Enterprises, Inc. is to provide the Claims Administrator with information described in the  
28 Settlement Agreement about Class Members ("Class List") in a readable Microsoft Office

1 Excel spreadsheet. The Claims Administrator is to perform address updates and verification  
2 as required in the Settlement Agreement. Within fourteen (14) calendar days after receiving  
3 the Class List from Defendants, the Claims Administrator is to mail the Notice Packet  
4 containing the Class Notice and Information Sheet to all Class Members via regular First-  
5 Class U.S. Mail.

6 11. The Court approves the procedures for Class Members to request to be  
7 excluded from and object to the Settlement as set forth in the Settlement Agreement and  
8 Class Notice.

9 12. Any Class Member may choose to be excluded from the Settlement by  
10 following the instructions provided in the Class Notice. A written Request for Exclusion  
11 must be signed by the Class Member and otherwise comply with the requirements delineated  
12 in the Class Notice. All written Requests for Exclusion must be submitted via First-Class  
13 U.S. Mail in a stamped envelope or by facsimile to the Claims Administrator no later than  
14 fort-five (45) calendar days from the initial mailing of the Notice Packet by the Claims  
15 Administrator. The response deadline will be extended ten (10) days for any Class Member  
16 who is re-mailed a Notice Packet. Any person who timely and properly submits a Request  
17 for Exclusion of the Settlement will be excluded from the Class, will not be entitled to any  
18 recovery under the Settlement and will not be bound by the Settlement or have any right to  
19 object, appeal or comment thereon. Class Members, who have not submitted a valid and  
20 timely Request for Exclusion, shall remain in the Class and shall be bound by all  
21 determinations of the Court, all terms of the Settlement Agreement and Judgment.

22 13. Any Class Member may object to the Settlement or express his or her views  
23 regarding the Settlement and may present evidence and file briefs or other papers that may  
24 be proper and relevant to the issues to be heard and determined by the Court. A written  
25 Notice of Objection must be signed by the Class Member and otherwise comply with the  
26 requirements and instructions delineated in the Class Notice. All written Notices of  
27 Objection must be submitted via First-Class U.S. Mail in a stamped envelope or by facsimile  
28 to the Claims Administrator no later than fort-five (45) calendar days from the initial

1 mailing of the Notice Packet by the Claims Administrator. The response deadline will be  
2 extended ten (10) days for any Class Member who is re-mailed a Notice Packet. The Claims  
3 Administrator shall serve all objections on Plaintiffs' and Defendants' counsel, and Class  
4 Counsel shall file with the Court by ten (10) days after the initial Response deadline. The  
5 Parties shall file all responses to objections no later than the deadline to file the Motion for  
6 Final Approval. If an untimely objection is filed within ten (10) days of the Motion for Final  
7 Approval, Class Counsel and Defendant's counsel shall have ten (10) days to respond.

8       14.     The proposed Settlement also provides for resolution of Plaintiff's  
9 representative PAGA Action. Class Members cannot be excluded from the PAGA  
10 component of the Settlement regardless of whether any Class Member asks to be excluded  
11 from the non-PAGA part of the Settlement. For purposes of this Settlement, Aggrieved  
12 Employees are defined as all non-exempt employees who worked for Defendant RGH  
13 Enterprises, Inc. dba HHI Enterprises, Inc. in California during the period from January 2,  
14 2018 up to the earlier of December 17, 2020 or the date a signed order preliminarily  
15 approving the Settlement is filed ("PAGA Period").

16       15.     Any Class Member may dispute the number of work weeks he or she worked  
17 stated in the Information Sheet by following the instructions provided in the Information  
18 Sheet. All letters stating the reasons for disputing the work weeks and supporting  
19 documentation must be submitted via First-Class U.S. Mail in a stamped envelope or by  
20 facsimile to the Claims Administrator no later than forty-five (45) calendar days from the  
21 initial mailing of the Notice Packet by the Claims Administrator. The response deadline will  
22 be extended ten (10) days for any Class Member who is re-mailed a Notice Packet.

23       16.     The Parties are ordered to carry out the Settlement according to the terms of  
24 the Settlement Agreement. Counsel for the Parties are authorized to utilize all reasonable  
25 procedures in connection with the administration of the Settlement that are not materially  
26 inconsistent with either this Order or the terms of the Settlement Agreement.

27       17.     The Court sets the following Implementation Schedule for further  
28 proceedings:

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<b>Event</b>	<b>Timing</b>
Last day for Defendant to provide Class List to Claims Administrator.	March 5, 2121  (Fourteen (14) calendar days after preliminary approval)
Last day for Claims Administrator to mail Notice Packet to Class Members ("Notice Date").	March 19, 2021  (28 days after preliminary approval)
Last day ("Response Deadline) for Class Members to submit Request for Exclusion or Notice of Objection to the Claims Administrator and letter disputing work weeks in Information Sheet (as evidenced by the postmark or facsimile receipt confirmation).	May 3, 2021  45 calendar days after Initial Mailing*)  *55 days for those members whose Notice Packet was remailed
Last day for Claims Administrator (a) to serve the Court and the Parties' counsel with Notices of Objections, and (b) to provide the Parties' counsel for the Parties with a list of all Class Members who submitted a valid Request for Exclusion.	May 5, 2021  (10 days after Response Deadline)
Last day for Plaintiff to file his motion and supporting documents for final approval of Class and PAGA Actions settlement (including copies of objections and responses to objections) and Plaintiff to file motion for attorneys' fees and costs, administration costs and enhancement award.	May 27, 2021  (21 calendar days before Final Fairness Hearing)
Final Approval Hearing.	June <sup>25</sup> 17, 2021 at 10:00 [time] (approximately 45 days after response deadline)





1 **PROOF OF SERVICE**

2 I am employed in the County of Los Angeles, State of California. I am over the age of 18  
3 and am not a party to the within action; my business address is 215 N. Marengo Ave. 3<sup>rd</sup>  
4 Floor, Pasadena, CA 91101.

5 On **January 14, 2021**, I served on the parties of record in this action the foregoing  
6 document(s) described as:

7 [PROPOSED] ORDER GRANTING PLAINTIFF'S MOTION FOR PRELIMINARY  
8 APPROVAL OF CLASS AND REPRESENTATIVE ACTIONS SETTLEMENT  
9 on the parties to this action by placing them in a sealed envelope(s) addressed as follows:

10 NICOLE R. ROYSDON  
11 LOIS M. KOSCH  
12 FREDERICK W. KOSMO  
13 WILSON TURNER KOSMO LLP  
14 402 West Broadway, Suite 1600  
15 San Diego, CA 92101

- 16  **BY MAIL** – I placed the sealed envelope(s) for collection and mailing by  
17 following the ordinary business practices. I am readily familiar with firm's  
18 practice for collecting and processing of correspondence for mailing with the  
19 United States Postal Service, said practice being that, in the ordinary course of  
20 business, correspondence with postage fully prepaid is deposited with the United  
21 States Postal Service the same day as it is placed for collection.
- 22  **BY EMAIL** – I sent such document by use of email to the email address(es)  
23 above. (CCP § 1013(a)) Such document was scanned and emailed to such  
24 recipient and email confirmation is attached hereto indicating the recipients'  
25 email address and time of receipt pursuant to CCP § 1013(a).
- 26  **STATE** – I declare under penalty of perjury under the laws of the "State of  
27 California that the above is true and correct.
- 28  **FEDERAL** – I declare under penalty of perjury under the laws of the United  
States of America that I am employed in the office of a member of the bar of this  
court at whose direction the service was made and that the above is true and  
correct.

Executed on **January 14, 2021**, at Pasadena, California.

23   
24 Rebecca L. Banos