PROPOSED TENTATIVE

On February 13, 2026, plaintiff Ruben Luna Avelar (plaintiff) filed a class action complaint against defendant Historic Santa Maria Inn, LLC (defendant), advancing nine (9) causes of action based on wage and hour violations, as follows: 1) failure to pay minimum and straight-time wages; 2) failure to pay overtime wages; 3) failure to provide meal periods; 4) failure to provide rest periods; 5) failure to timely pay final wages at termination; 6) failure to provide accurate itemized wage statements; 7) failure to indemnity employees for expenditures; 8) failure to produce requested employment records; and 9) unfair business practices per Business and Professions Code section 17200, et seq. The proposed class consists of plaintiffs and other person who have been employed by defendant as hourly paid or non-exempt employees for the last four years. Plaintiff no longer works for defendant. No answer has been filed.

On April 6, 2026, defendant filed a motion to compel arbitration per Code of Civil Procedure section 1281.2. Defendant has submitted a memorandum of points and authorities, along with declarations from Diana Aguilar, who is the Human Resources Manager for defendant, and Christina Behrman, defendant's counsel. Defendant contends the parties executed an arbitration agreement on June 23, 2023. Attached to both declarations is Exhibit A, which is entitled "Santa Maria Inn Employment Application[.]" Page 4 of the application is a document entitled "Acknowledgment," signed by plaintiff, in which the following relevant provisions appear: ". . . As further consideration for my employment, I agree that any controversy or claim arising out of or related to my termination of employment from Hotel or State law, shall be settled by final and binding arbitration in the city where the hotel is located. In accordance with the voluntary Labor Arbitration Rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction[;] in reaching a decision the arbitrator shall have no authority to change or modify any provisions of this application or employment or my certification herein. . . ."

Plaintiff filed opposition on June 3, 2026. Plaintiff contends defendant has failed to meet its burden to prove a valid arbitration agreement; and argues defendant has failed to show that the arbitration agreement covers any asserted claims in the operative pleading. Further, opines plaintiff, the arbitration agreement contains no class action waiver. Finally, plaintiff argues that the arbitration agreement is unenforceable because it is tainted by both procedural and substantive unconscionability. Plaintiff submits his own declaration in an attempt to show the arbitration agreement is unenforceable. Plaintiff advances two evidentiary objections to the declaration of Diana Aguilar.

Defendant filed a reply on June 9, 2026. Defendant insists there is binding, enforceable arbitration agreement, and there is plaintiff has failed to demonstrate either procedural or substantive unconscionability.

All briefing has been examined.

Defendant on June 9, 2026, filed a "Notice of Request Of Statement of Decision[,]" as authorized pursuant to Code of Civil Procedure section 1291. This tentative decision (upon final approval) is offered in satisfaction of this request.

The court will address defendant's judicial notice request, examine plaintiff's two evidentiary objections, and then explore the merits of the motion, focusing exclusively on the dispositive points. The court will finish with a brief summary of its conclusions.

A) Judicial Notice Request

The court grants defendant's request to take judicial notice of the "Labor Arbitration Rules of the American Arbitration," effective January 1, 2026. These rules are referenced in the arbitration agreement. The request is unopposed.

B) Evidentiary Objections

Plaintiff advances two evidentiary objections to Diana Aguilar's declaration. Ms. Aguilar declares that she is the Human Resources Manager, and that she is the custodian or records of the plaintiff's personnel file. She declares in paragraph 3 as follows: "Based on my review of the [plaintiff's personnel file], as it is maintained in the ordinary course of business, Plaintiff is a former employee of Defendant. Attached thereto as Exhibit A is a true and correct copy of the Employment Application and Acknowledgements signed by Plaintiff on June 23, 2023. The Employment Application and Acknowledges is standard document used by Defendant [in] the ordinary course of business, and it is completed by applicants and employees and securely maintained in employee personnel files." And in paragraph 4, she declares as follows: "In my position as Human Resources Manager, I am familiar with the process by which applicants and employees review and complete documentation relating to Defendant's employment policies and procedures. Defendant asks applicants and employees to review and sign certain documentation relating to Defendant's employment policies and procedures when applying for work, upon hire and at other times during employment. Applicants and employees are instructed to review this documentation before signing it, and allowed the opportunity to review and ask questions, and I am available to answer any questions related to the employment documents, including the Employment Application and Acknowledgments. When asking any employee to sign documentation relating to Defendant's employment policies and procedures, it is Defendant's regular custom and practice to allow applicants and employees to spend as much time as they need to review the documentation prior to signing including the Employment Application and Acknowledgments. There is no time limit, rushing or urgency for applicants and employees to review these documents."

Plaintiff raises the same six evidentiary objections to each paragraph, jot-for-jot, with each objection advanced to the entirety of the paragraph as a wholesale, without nuance to any subpart, as follows: lack of foundation; improper opinion and speculation; conclusory statements; lack of authentication; hearsay; and a violation of secondary evidence rule. Courts take the evidentiary objections as they are made, and because here they are made to the entirety of the paragraph, not to any subpart, for the objection to be successful the entire paragraph at issue must be objectionable.

That is not the case, and for that reason, the objections are overruled. Ms. Aguilar declares she is the “Human Resources Manager,” and has held this position when plaintiff was employed. She declares that this position requires her to be familiar with how defendant collects and maintains its personnel files, and to be familiar with the process by which applicants review and complete employment documents, including employment policies and procedures. She claims to have personal knowledge of these facts, meaning she can testify to them. The Employment Application and Acknowledgement were made during the regular course of business; Ms. Aguilar is the custodian of records of all personnel files, including these two documents. Ms. Aguilar can therefore testify about the procedures and policies followed, and the two documents are admissible pursuant to Evidence Code section 1271 (the business records exception) for that purpose. Ms. Aguilar has the ability to authenticate the documents even without personal knowledge, and their contents are admissible under this provision. Here declaration is not speculative, does not amount to an impermissible opinion, and is not impermissibly conclusory, Nor is it violation of the secondary evidence rule, as these critical documents have been admitted. Further, Ms. Aguilar can testify (based on personal knowledge, as she was the Human Resources Manager since 2019), when plaintiff was hired and terminated, as the complaint makes it clear that both events occurred after 2019. Finally, Ms. Aguilar can testify based on “custom and practice” of the business given the nature of her position. This is sufficient for the court to overrule both evidentiary objections given their wholesale nature. (See, e.g., *Quantum Cooking Concepts, Inc. v. L.V. Associates, Inc.* (2011) 197 Cal.App.4th 927, 934 [trial court has no obligation to undertake its own search of the record backwards and forwards to try and determine how the law applies to the particular facts].)

C) Merits

The rules governing a motion to compel arbitration, even when governed by the FAA, are settled. When “a party to an arbitration agreement alleg[es] the existence of a written agreement to arbitrate a controversy,” the party may move for an order to arbitrate based on the agreement. (Code Civ. Proc., § 1281.2.) The moving party bears the burden of proving that such an agreement exists. (*Rosenthal v. Great Western Fin. Securities Corp.* (1996) 14 Cal.4th 394, 413.) As part of its burden, the moving party must first produce prima facie evidence of the agreement. If the opposing party contests the authenticity, validity, or general enforceability of the agreement, including the defense of unconscionability, the burden then shifts to that party to produce evidence in support of such a defense. (*Rosenthal*, at p. 413; see *Toothman v. Redwood Toxicology Laboratory, Inc.* (2026) 120 Cal.App.5th 412.)

The court will not address each argument raised by the parties in their respective briefing. The court will assume arguendo that defendant has shown an arbitration agreement exists between the parties, and that arbitration is authorized as to the issues in plaintiff’s operative pleading. Even with this, the court finds, for the reasons discussed in depth below, that it must deny motion to compel arbitration.

In *Armendariz v. Foundation Health Psychcare Services, Inc*. (2000) 24 Cal.4th 83, the California Supreme Court made it clear that every mandatory employment arbitration agreement, which an employer imposes on a prospective or current employee as a condition of employment, "must meet certain minimum requirements, including neutrality of the arbitration, the provision of adequate discovery, a written decision that will permit a limited form of judicial, review, and limitations on the costs of arbitration." (*Id.* at p. 91.) Courts have described this as the "five-part" fairness test required by *Armendariz*. These requirements apply even when the FAA is implicated, as is the case here. (*Little v. Auto Stieglar, Inc.* (2003) 29 Cal.4th 1064, 1078-1079 [*Armendariz* requirements are applications of general state law contract principles regarding the unwaivability of public rights and thus are not preempted by the FAA]; p. 1080 ["Nothing in the United States Supreme Court case law leads us to believe that a state requirement shifting arbitration costs in mandatory employment agreements to the employe pursuant to established state contract law violates the FAA"]; see also *Ramos v. Superior Court* (2018) 28 Cal.App.5th 1042, 1055 [*Armendariz* remains controlling authority even when FAA rules apply].) Further, while *Armendariz* involved mandatory arbitration employment contract involving causes of action under the Fair Employment Housing Act (FEHA), post-*Armendariz* appellate case authority indicates the five-part fairness test applies to other types the mandatory employment arbitration agreements when public policy issues are at play, such as wage and hour violations (under the Labor Code). (*Mercuro v. Superior Court* (2002) 96 Cal.App.4th 167. 180 ["we see no reason why *Armendariz*'s 'particular scrutiny of arbitration agreements should be confined to claims under FEHA; rather, under the Supreme Court's analysis, such scrutiny should apply to enforcement of rights under any statute enacted 'for a public reason"]; see also *D.C. v. Harvard-Westlake School* (2009) 176 Cal.App.4th 836, 864 [same]; *Jones v. Humanscale Corp*. (2005) 130 Cal.App.4th 401, 412 [because the arbitration deals with plaintiff's wages claim, it covered an unwaivable statutory issue affecting public policy and therefore needed to comply with Armendariz's minimum fairness requirements].) Finally, the five-part test per *Armendariz* is clearly related to, but nevertheless, separate from, an unconscionability determination.[1]

Defendant has not shown compliance with all minimum requirements required of *Armendariz,* as the arbitration agreement is mandatory; notably, it violates the rule that an employee cannot be charged with unreasonable costs and arbitration fees. *Armendariz* could not be clearer on this point: "Accordingly, consistent with the majority of jurisdictions to consider this issue, we conclude that when an employer imposes mandatory arbitration as a condition of employment the arbitration agreement or arbitration process cannot generally require the employee to bear any type of expense that the employee would not be required to bear if he or she were free to bring the action in court. This rule will ensure that employees bringing [statutory claims] will not be deterred by costs greater than the usual costs incurred during litigation, costs

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[1] As our high court recently explained in *Ramirez v. Charter Communications, Inc.* (2024) 16 Cal.5th 478, 538, footnote 7: "Charter criticizes the Court of Appeal for failing to address the [arbitration] Agreement's purported compliance with Armendariz's five requirements. As [another appellate court] explained, " [t]he *Armendariz* requirements are an application of general state law principles regarding the unwaivability of public rights in the arbitration context.' [Citation.] . . . Here, Ramierz only challenged enforcement on unconscionability grounds. Whether an agreement satisfies *Armendariz'*s requirements may inform the determination whether it of any of provisions is unconscionable, ***but the two inquiries are distinct***. . . ." (Emphasis added.)

that are essentially imposed on an employee by the employer." (*Armendariz, supra*, at pp. 110-111.)

It is unquestionably true that in *Armendariz* our high court interpreted mandatory employment arbitration agreements as "***impliedly*** oblig[ating] the employer to pay all types of costs that are unique to arbitration," and in so concluding, made the following observation: "The ***absence of a specific provision*** on arbitration costs would therefore not be grounds for denying the enforcement of an arbitration agreement." (*Armendariz, supra*, at p. 113, emphasis added; see *Little v. Auto Stieglar, Inc., supra*, 29 Cal.4th at p. 1082 [*Armendariz* held that we should infer from silence about costs in an mandatory employment arbitration agreement that the employer must bear the costs];see also *Revital Azargin v. Vitas Healthcare Corporation of California* (C.D. Cal., Feb. 18, 2026, No. 2:25-CV-10564-WLH-PD) 2026 WL 485693, at p. 5 [the fact that the arbitration agreement is "otherwise silent" on costs does not render the Agreement unenforceable]; see also *Blackstock v. Marin Luxury Cars LLC* (N.D. Cal., Sept. 12, 2023, No. 22-CV-07052-JD) 2023 WL 5959426, at p. 3 that California law requires the employer to pay arbitration costs "when an agreement does not address that issue"].)

The problem, however, is that the single page arbitration agreement, while on its face is silent about the arbitration costs, nevertheless expressly incorporates into it all relevant sections of "Labor Arbitration Rules of the American Arbitration Association," of which the court has taken judicial notice.[2] Section 44 of these Labor Arbitration Rules expressly provides, as to costs and fees, as follows: ". . . ***Expenses of arbitration, other than the cost of the stenographic record, including required traveling and other expenses of the arbitration and the AAA representatives and expenses of any of any witness or the cost of any proof produced at the direct request of the arbitrator***, **shall be borne equally by the parties,** unless they agree otherwise, or unless the arbitrator, in the award, assess such expenses or any part thereof against any specified part or parties." The arbitration agreement is thus not silent on who shall bear the costs of arbitration (put another way it is not ambiguous or vague as to who will bear arbitration costs). Per section 44's incorporation into the arbitration agreement, both parties bear the costs ***equally,*** unless the arbitrator orders otherwise. This is contrary to *Armendariz.* (See, e.g., *Ali v. Daylight Transport, LLC* (2020) 59 Cal.App.5th 462, 476-477 [incorporation by reference of AAA Commercial Arbitration Rules contributed to the agreement's procedural unconscionability].) And it is irrelevant as stated in Ms. Behrman's declaration dated April 6,

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[2] Defendant admits as much in its "Memorandum of Points and Authorities." It argues expressly that the arbitration agreement "must be construed as to incorporate all procedures necessary to allow Plaintiff to assert his rights in arbitration that are consistent with *Armendariz* . . . " (P. 12.) Accordingly, defendant relies on these very rules (and the relevant sections therein) to show the arbitration agreement provides for a neutral arbitrator, provides for adequate discovery, and provides for a written arbitration award must be writing. (Motion, pp. 12-13.) Specifically, defendant acknowledges Labor Arbitration Rules of the American Arbitration Association" call for a neutral arbitrator (Sections 9, 10, 11, 12, and 15); seemingly provides for adequate discovery (see, e.g., Section 27); requires a written arbitration award (Section 37); and contemplates post-arbitration judicial review. (Sections 41 and 42.)

2026, that "Defendant agrees to pay all of the arbitration forum costs." Our high court has made it clear, for example, that in determining unconscionability (and thus by logic the fairness factors per *Armendariz*), courts review the agreement ***at the time it was executed***, not after concessions are made during litigation. (See, e.g., *Ramirez, supra*, 16 Cal.5th at p. 493 [whether a contract works an unconscionable hardship is determined with reference to the time when the contract was made and cannot be resolved by hindsight by considering circumstances of which the contracting parties were unaware]; see *O'Hare* v. *Municipal Resource Consultants* (2003) 107 Cal.App.4th 267, 280 ["[The employer's] willingness to bear all costs in the arbitration proceeding does not change the fact the arbitration provision [imposing costs forbidden by *Armendariz*] is substantively unconscionable"].)

The court is not writing on a blank slate in this regard. In *Wherry v. Award, Inc*. (2011) 192 Cal.App.4th 1242, for example, the appellate court addressed a similar issue through the prism of substantive unconscionability. (*Id.* at p. 1248.) The *Wherry* court observed as follows: "The terms of the arbitration manual violate *Armendariz*," because the manual provides that the arbitration "may impose costs, including the arbitration fee, on the losing party. [¶] Defendants argue that the arbitration manual does not require plaintiffs to pay costs. ***Nevertheless, it empowers the arbitration to impose them***, in violation of *Armendariz*. Defendants maintain that the arbitration panel 'is able to award costs and attorney [] fees consistent with . . . *Armendariz.'* But again, nowhere in the agreements or the arbitration manual is that protection provided." "In a similar vein defendants assert this is not a ground on which to invalidate arbitration because *Armendariz* held that a 'mandatory employment arbitration agreement that contains within its scope the arbitration of [unwaivable public policy statutes] claims impliedly obliges the employer to pay all types of costs that are unique to arbitration," citing *Armendariz.* The *Wherry* court riposted as relevant for our purposes as follows: "So it did, but in that case there was no provision at all as to who would bear the costs, contrary to the terms here that expose plaintiffs ***to risk*** of paying costs. . . . ." (*Id*. at p. 1249.) *Wherry* concluded that the mere risk of imposing costs forbidden by *Armendariz* would be sufficient to establish unconscionability (and thus preclude enforceability) The same is true here. While the written acknowledgement portion of the arbitration agreement is silent as to costs, the AAA rules incorporated into the arbitration agreement expressly provide that plaintiff must bear half the costs, unless ordered otherwise, as was true in *Wherry.* As was true of the plaintiffs in *Wherry,* plaintiff here is exposed "to the risk of paying costs." As was true in *Wherry,* the arbitration agreement is unenforceable as written, in violation of *Armendariz,* for interference "with ***any*** of" the five *Armendariz* fairness requirements makes the agreement unenforceable. (*Id* at p. 1248.)[3]

For the record, the court alternatively determines that even if it examines enforceability through the prism of procedural and substantive unconscionability (and not simply as part of the

[3] It is true that *Wherry* analyzed the issues under unconscionability. Nevertheless, given the clear relationship between *Armendariz* and unconscionability (see footnote 1, *ante*), a conclusion as to unconscionability impacts a decision under *Armendariz* directly.

five-factor *Armendariz* fairness inquiry directly), it would also find the arbitration agreement unenforceable. The rules associated with unconscionability are settled. A contract is unconscionable when " 'one of the parties lacked a meaningful choice in deciding whether to agree and the contract contains terms that are unreasonably favorable to the other party.' " (*Fuentes v. Empire Nissan, Inc.* (2026) 19 Cal.5th 93, 102-103; *Ramirez v. Charter Communications, Inc., supra,* 16 Cal.5th at p. 492.) The first aspect of unconscionability—whether the circumstances of formation were such that a party lacked a meaningful choice—is its procedural component. (See *Fuentes*, at p. 103.) The second aspect, its substantive component, concerns whether the actual terms of the contract are fair, as opposed to " 'overly harsh or one-sided.' " (*Ibid*.) Although the party opposing arbitration must establish both components of unconscionability to invalidate a contract, courts utilize a sliding scale analysis, such that minimal procedural unconscionability may be sufficient when paired with greater substantive unconscionability, or vice versa. (See *Fuentes*, at p. 103; *Ramirez*, at p. 493.)

There is a least a modicum of procedural unconscionability, as plaintiff has demonstrated that he was required to sign the arbitration as a condition of employment, making it a contract of adhesion. (*Fuentes, supra,* 19 Cal.5th at p. 103.) As our high court has observed, under these circumstances, "the economic pressure . . . to sign the agreement is particularly high." (*Id.* at p. 104.) The court finds at least a modicum of procedural unconscionability. Further, as *Wherry* examined the issue of unreasonable costs as part of a substantive unconscionability inquiry, its analysis is directly relevant on this point.

This leaves the issue of severance. Whether the court examines the issue exclusively under the raiment of the *Armendariz* fairness factors, or alternatively through the prism of procedural and substantive unconscionability, the defect cannot be cured by simply striking Section 44 of the arbitration rules from the scope of the arbitration agreement; the court would instead have to reform the parties agreement in order to enforce an *Armendariz*'s required costs provision, something it cannot do. (*Wherry, supra*, 192 Cal.App.4th at p. 1250.) Our high court has reiterated the general rules applicable to severance as the basis to otherwise enforce an arbitration agreement that is unconscionable (and/or violative of *Armendariz*). If no "reformation is required," and if the offending provision can be severed or limited and "the rest of the arbitration agreement left intact," then severance or restriction is the preferred course for provisions that are collateral to the agreement's main purpose. "If the unconscionability cannot be cured by extirpating or limiting the offending provisions, but instead requires augmentation to cure the unconscionability, ***<u>then the court should refuse to enforce the contract</u>***." (*Ramirez v. Charter Communications, Inc., supra,* 16 Cal.5th at p. 547, emphasis added; *Stoker v. Blue Origin, LLC* (2026) 120 Cal.App.5th 91, 114 [courts cannot through severance impose terms to which neither party has agreed].) The court cannot sever the unconscionable costs provision through extirpation but only augmentation and reformation (i.e., a rewriting of the arbitration agreement). Accordingly, per *Ramirez*, the court cannot enforce the arbitration contract.

D) Summary

The court grant's defendant's request for judicial notice.

The court overrules both evidentiary objections advanced by plaintiff.

On the merits, whether viewed exclusively through the *Armendariz* lens or through the prism of unconscionability, the arbitration agreement cannot be enforced, because it requires plaintiff to bear unreasonable costs. Severance cannot be utilized to salvage the arbitration contract. Accordingly, the court denies the motion to compel arbitration.

Defendant is directed to file a responsive pleading within 30 days of the hearing.