

PROPOSED TENTATIVE

On January 30, 2023, plaintiff Damian Albarran (plaintiff) filed a class-action complaint against defendant Amita Restaurant, Inc. (defendant) raising numerous wage and hour violations (9 causes of action), as well as an unfair competition claim (10th cause of action). An amended complaint was filed on May 22, 2023, advancing the same 10 causes of action in the original complaint, but adding an 11th cause of action for civil penalties under the Private Attorneys General Act (the PAGA). Defendant answered on August 4, 2023. On April 25, 2024, the parties stipulated that all individual class and PAGA claims should go to arbitration, and that all class claims should be dismissed without prejudice. The parties also agreed that the representative action for all aggrieved employees would be stayed pending arbitration. The court signed the stipulation on April 25, 2024. On April 14, 2026, this court signed the order allowing plaintiff's counsel to be relieved. Counsel has not been replaced.

On May 5, 2026, defendant filed a "Petition to Confirm the Contractual Arbitration Award." The above-mentioned arbitration occurred on April 17, 2026, and the arbitration award was made on April 29, 2026. A copy of the arbitration award is attached to the petition. The arbitrator – Barbara Reeves Esq. – indicated that plaintiff/claimant was ordered to show cause on April 24, 2026, as to why the arbitration should not be dismissed with prejudice "for failure to prosecute/lack of activity." The arbitrator ordered that if claimant "fail[ed] to show good cause, the Arbitrator will dismiss this arbitration with prejudice." Claimant/plaintiff failed to respond to the order to show cause and "has not filed a declaration or any submission stating why this case should not be dismissed."¹ The arbitrator indicated that claimant/plaintiff failed to appear and failed to respond. The arbitrator in the award ultimately concluded that the "Claimant shall take nothing in his Demand"; the "Arbitration Demand is Dismissed with prejudice"; and that the "Award resolves all claims between the parties submitted for decision in this proceeding. All claims and defenses not expressly granted are denied. This Award may be confirmed by any state or federal court of appropriate jurisdiction." Claimant's counsel was served with the arbitrator's award by mail on April 29, 2026. Plaintiff/Claimant was served with the award by mail on May 5, 2026. No opposition has been submitted.

Once an arbitrator issues an "award" within the meaning of the California Arbitration Act (the Act), the "torch of jurisdiction" passes "from the arbitrator to the trial court." (Code of Civ.

¹ The arbitrator's decision indicates that the matter "was originally filed in Los Angeles Superior Court on January 30, 2023." That of course is erroneous – it was filed in Santa Barbara County Superior Court on that date. The court will address this defect later in this order.

Proc.,² § 1283.4 [defining “award”]; *Lonky v. Patel* (2020) 51 Cal.App.5th 831, 843.) Once that torch has passed, the parties to the arbitration can petition the trial court to issue one of two orders with regard to the arbitration award: (1) an order confirming the arbitration award (§ 1285), which converts the arbitrator's unchanged award into an enforceable judgment (§ 1287.4; *Caro v. Smith* (1997) 59 Cal.App.4th 725, 737), or (2) an order vacating or correcting the arbitration award (§§ 1285, 1285.2, 1285.8), which alters the award's substantive findings and may be issued only upon one of the six bases for vacating an award set forth in section 1286.2 or one of the three bases for correcting an award set forth in section 1286.6.

The Act explicitly prescribes deadlines for filing these petitions. The deadline for filing a petition to confirm an arbitration award is four years (from the date the petitioner was served with the award). (§ 1288.) The deadline for seeking to vacate or correct an arbitration award is less straightforward because the Act prescribes two ways to seek an order vacating or correcting an award, each with its own deadline. A party may seek an order vacating or correcting an award in a standalone petition (§ 1285), and the default deadline for filing such a petition is 100 days from the date the petitioner was served with the award. (§§ 1288, 1288.2.) Or a party may also seek an order vacating or correcting an award in its response to a prior-filed petition to confirm that award (§ 1285.2), and the default deadline for filing that response is 10 days from the date the responding party is served with the petition to confirm. (§ 1290.6.) When a petition to confirm is filed fewer than 90 days after an award is served, a competing request to vacate or correct the award—whether styled as a response to the petition to confirm or as a standalone petition—must be filed and served within 10 days of service of the petition to confirm, even if that due date is less than 100 days after service of the award. (*Darby v. Sisyphean, LLC* (2023) 87 Cal.App.5th 1100, 1110 [disapproved by *Law Finance Group, LLC v. Key* (2023) 14 Cal.5th 932, 952 “to the extent that it characterized section 1288.2's 100-day limitations period as “jurisdictional” in the fundamental sense.”])

Here, the petition appears to have been timely served, and no opposition or petition seeking an order to vacate or correct the award has been filed. It would be untimely at this point in any event.

Pursuant to the statutory scheme, a petition to confirm an arbitration award and enter it as judgment must set forth the substance of the agreement to arbitrate, the name(s) of the arbitrator, and attach a copy of the written arbitration award(s). (§ 1285.4, subd. (a)-(c); *Loeb v. Record* (2008) 162 Cal.App.4th 431, 4650.) If these requirements are satisfied and absent opposition or competing petition, the court must enter the arbitration award as a judgment. (§ 1286 [the court “shall confirm the award as made”]; see *Law Offices of David S. Karton v. Segreto* (2009) 176 Cal.App.4th 1, 9 [the strict limitations of § 1286 are seldom acknowledged in the case law; if the

² All future statutory references are to the Code of Civil Procedure.

trial court does not dismiss or correct or vacate it must confirm the award, and entry of judgment in conformity therewith is required]; *Valsan Partners Limited Partnership v. Calcor Space Facility, Inc.* (1994) 25 Cal.App.4th 809, 818 [same].) A judgment so entered has the same force and effect as and is subject to the provisions of law relating to, a judgment in a civil action of the same jurisdictional classification and may be enforced like any other judgment. (§ 1287.4.)

One additional requirement should be noted. This agreement expressly states it is governed by the FAA. (Agreement, ¶ 1.) An arbitration agreement governed by the FAA is confirmable only if the parties have agreed judgment may be entered on the award. (9 U.S.C § 9 (hereafter, section 9).) Paragraph 7 of the arbitration agreement expressly authorizes entry of judgment by “a court of competent jurisdiction shall have the authority to enter a judgment upon the award made pursuant to the arbitration.”

All statutory requirements appear to have been satisfied. Petitioner has submitted all documents, including the arbitration agreement, the arbitration award, and supplied the name of the arbitrator. All submissions, including a notice of hearing, were served on respondents. The hearing is timely, and respondent has not filed a response of any kind. Further, even if the court assumes that section 9 applies to the present matter, the parties consented to a judicial confirmation of the arbitration award.

There is one problem not addressed by the moving party. Petitioner has submitted a petition to confirm the arbitration award and enter it as judgment, and nothing more. As observed above (see fn.1, *ante*), the award contains a misstatement of fact – the arbitrator indicated that the original complaint was filed in Los Angeles County Superior Court. That of course is not true – it was filed in Santa Barbara County Superior Court. The court pursuant to section 1286.6, subdivision (c) (a provision not relied upon by moving party) imbues the court with the authority to correct an arbitration award if the “the award is imperfect in a matter of form, not affecting the merits of the controversy.” (See, e.g., *Department of Human Resources v. California Correctional Peace Officers Association* (2026) 120 Cal.App.5th 656, ___ [334 Cal.Rptr.3d 519, 528].) A court may not correct an award unless a party requests the award be corrected. (*Valsan Partners Limited Partnership v. Calcor Space Facility Inc.* (1994) 25 Cal.App.4th 809, 818.) A request to correct must be made within 100 days after the date of the service of signed copy of the award on the petitioner (here, that was April 29, 2026, and the present motion was filed May 5, 2026).

While the court has the authority to correct this mistake, petitioner has not requested the court to do so – a necessary precondition pursuant to section 1286.6. Petitioner may have to modify the present motion and/or go back to the arbitrator to correct the award pursuant to section 1284, if possible. Judicial review of arbitration awards is very limited, and the rules are strict. The court has found no authority that permits it to correct an imperfection in form on its

own (without a request). Once a petition to confirm an arbitration award is duly served and filed, as was the case here, the court's options are limited. The exclusive grounds for correcting an award are those enumerated in section 1286.6, with the prerequisites for that provision expressly outlined in section 1268.8.

The parties are instructed to appear at the hearing in order to determine how the court should proceed. It is possible that the petition itself can be amended to ask the court to confirm and correct (thus relating back to the original petitioner), but a new notice of motion will have to be sent, and the matter continued for that purpose (leaving enough time for normal law and motion timeframes). The court observes that there is a motion to dismiss on calendar for August 25, 2026, and that date allows sufficient time if an amended petition is filed forthwith. The parties should be prepared to discuss. Appearance by Zoom is optional and does not require the filing of Judicial Council form RA-010, Notice of Remote Appearance.