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11
12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13
14 **COUNTY OF ORANGE**
15

16 JOSE AREVALO, an individual;

17 Plaintiffs,

18 v.

19 LAND FORMS LANDSCAPE
20 CONSTRUCTION, INC., a California
21 corporation; JEFF TRACY, an individual; and
22 DOES 1 through 50, Inclusive,

23 Defendants.
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Case No. 30-2020-01143299-CU-OE-CJC

**[PROPOSED] JUDGMENT GRANTING
APPROVAL OF PRIVATE ATTORNEYS
GENERAL ACT (LABOR CODE § 2698)
SETTLEMENT AGREEMENT**



1 The Court has considered the parties' Motion For Approval of Private Attorneys General
 2 Act (Labor Code Section 2698, *et. seq.* Settlement, including the settlement agreement, and the
 3 record in this action ("Litigation"). The matter having been submitted and good cause appearing,

4 IT IS HEREBY ORDERED AND ADJUDGED AS FOLLOWS:

5 1. All defined terms contained herein shall have the same meaning as set forth in the
 6 Settlement Agreement between the Parties ("Settlement"). The Labor Code Private Attorneys
 7 General Act, codified at California Labor Code section 2698 *et seq.*, is hereinafter referred to as
 8 "PAGA".

9 2. The Litigation consists of a representative action by Plaintiff Jose Arevalo
 10 ("Plaintiff" or "PAGA Representative") against Defendants Land Forms Landscape Construction,
 11 Inc. and Jeff Tracy (collectively, "Defendants") under PAGA for penalties on behalf of the State
 12 of California and certain employees of Land Forms Landscape Construction, Inc. ("Aggrieved
 13 Employees") from January 24, 2019 through September 1, 2021 ("PAGA Period") asserting
 14 violations of Labor Code Sections 201, 202, 203, 226(a), 226.3, 226.7, 226.8, 510, 551, 552, 558,
 15 558.1, 1102.5, 1174, 1174.5, 1194, and 1199 (the "Representative PAGA Action").

16 3. The Court has jurisdiction over the subject matter of the Litigation, the PAGA
 17 Representative, the Aggrieved Employees, and Defendants. This Judgment shall be binding not
 18 only on the named parties to the litigation but also on all Aggrieved Employees and the State of
 19 California, who are hereby barred by the doctrine of res judicata from re-litigating the Released
 20 Claims. *See Arias v. Superior Court*, 46 Cal. 4th 969, 986 (2009) (holding that a judgment in a
 21 representative action brought by an aggrieved employee under PAGA is binding not only on the
 22 named employee plaintiff but also on state labor law enforcement agencies and any aggrieved
 23 employee not a party to the proceeding).

24 4. The Court hereby approves the terms set forth in the Settlement and finds that the
 25 Settlement is, in all respects, fair, adequate, reasonable, and just and is not arbitrary, oppressive or
 26 confiscatory and directs the Parties to effectuate the Settlement according to its terms. The Court
 27 finds that the Settlement has been reached as a result of informed and non-collusive arm's-length
 28 negotiations. The Court also finds that settlement now will avoid additional and potentially



substantial litigation costs, as well as delay and risks if the Parties were to continue to litigate the case. The Court has reviewed the monetary recovery being provided as part of the Settlement and approves the value afforded to LWDA, Plaintiff, and the Aggrieved Employees.

5. The Settlement is not an admission by Defendants as defined below, nor is this Order a finding of the validity of any allegations or of any wrongdoing by Defendants. Neither this Judgment, the Settlement, nor any document referred to herein, nor any action taken to carry out the Settlement, may be used as an admission of any fault, wrongdoing, omission, concession, or liability whatsoever by or against Defendants.

6. In accordance with the Settlement, which the Court hereby approves based on good cause showing for the reasons set forth in the parties' motion, and with no objection received from the LWDA: (a) The total payment under this Settlement Agreement is Sixty-Five Thousand Dollars (\$65,000.00) (the "PAGA Settlement Sum"), which includes any and all payments to the Aggrieved Employees, payment to the LWDA pursuant to PAGA, and all third-party costs of settlement administration; (b) ILYM Class Action Administrators ("ILYM") is hereby approved to administer this Settlement; and (c) the LWDA and all Aggrieved Employees are hereby permanently enjoined from pursuing, or seeking to reopen, any Released Claims against any Released Parties.

7. The PAGA Settlement Sum is allocated as follows: (a) Settlement Administrator's Fee to ILYM in the amount of \$3,752.75 for the administration of the agreement; (b) a LWDA payment to the California Labor and Workforce Development Agency in the amount of \$45,935.44 which represents seventy-five percent (75%) of the "Net Settlement Amount" (PAGA Settlement Sum minus the Settlement Administrator's Fee); and (c) a payment in the amount of \$15,311.81 to alleged aggrieved employees which represents twenty-five percent (25%) of the Net Settlement Amount, to be paid on a pro rata basis based on the number of pay periods worked during the PAGA Period. Land Forms Landscape Construction, Inc. ("Land Forms") shall provide the Settlement Administrator with specific pay period information by Land Forms for all Aggrieved Parties. Payments to the Aggrieved Employees will be accompanied with a letter which is substantially similar in content and form as the Notice of PAGA Settlement and Release



1 of Claims attached hereto as Exhibit 1 in English and Spanish.

2 8. No portion of the PAGA Settlement Sum will be used for Plaintiff's attorneys'
3 fees, costs, and/or litigation expenses. No portion of the PAGA Settlement Sum will be used for
4 an enhancement payment to Plaintiff.

5 9. The Court has determined that the payment in the amount of \$3,752.75 to the
6 Settlement Administrator, ILYM is reasonable.

7 10. The Court further orders, adjudge and decrees that upon the Court's signing of an
8 order approving the Settlement, the LWDA and Aggrieved Employees fully release and forever
9 discharge the Released Parties from any and all known and unknown claims under PAGA against
10 the Released Parties that were alleged in the Complaint, including but not limited to alleged
11 violations of California Labor Code Sections 201, 202, 203, 226(a), 226.3, 226.7, 226.8, 510, 551,
12 552, 558, 558.1, 1102.5, 1174, 1174.5, 1194, and 1199.

13 11. All of the Released Claims are deemed adjudicated and extinguished with prejudice
14 as to the PAGA Representative, all of the other Aggrieved Employees, and the State of California.

15 12. The Settlement Administrator shall make the payments to the LWDA and the
16 Aggrieved Employees as provided for in the Settlement Agreement.

17 13. The Court further finds that notice of the Settlement has been provided to the
18 LWDA as required by PAGA and Labor Code section 2699(1)(2).

19 14. Any request to intervene in the Litigation and/or Settlement that is filed after the
20 date this Judgment is entered shall be and hereby is deemed untimely.

21 15. Neither the Settlement nor any act performed or document executed pursuant to or
22 in furtherance of the Settlement (a) is or may be deemed to be or may be used as an admission of,
23 or evidence of, the validity of any Released Claims, or of any wrongdoing or liability of the
24 Releasees, or any of them; or (b) is or may be deemed to be or may be used as an admission of, or
25 evidence of, any fault or omission of the Releasees, or any of them, in any civil, criminal or
26 administrative proceeding in any court, administrative agency or other tribunal. Defendants or any
27 of the Releasees may file the Settlement and/or the Judgment from this Litigation in any other
28 action that may be brought against it or them in order to support a defense or counterclaim based

1 on principles of res judicata, collateral estoppel, release, good faith settlement, judgment bar or
2 reduction or any theory of claim preclusion or issue preclusion or similar defense or counterclaim.

3 16. This action is dismissed with prejudice.

4 17. This Court shall retain jurisdiction, pursuant to Code of Civil Procedure section
5 664.6, over this action and the Parties and Aggrieved Employees, to the fullest extent necessary to
6 interpret, enforce and effectuate the terms and intent of the Settlement Agreement and this Order.

7 IT IS SO ORDERED AND ADJUDGED.

8
9 Dated: _____

Hon. William Cluster

ALESHIRE &
WYNDELL LLP
ATTORNEYS AT LAW



EXHIBIT 1

Notice of PAGA Settlement and Release of Claims

Jose Arevalo v. Land Forms Landscape Construction, Inc., et al., Case No. 30-2020-01143299-CU-OE-CJC

<<Employee Name>>
<<Address1>> <<Address2>>
<<City>>, <<State>> <<Zip Code>>
XX - XX - <<W9SSN>>

I. NOTICE OF PAGA SETTLEMENT

The Orange County Superior Court (the “Court”) has approved a settlement in the above-captioned action filed by Jose Arevalo (“Plaintiff”) on behalf of himself and all other aggrieved employees. In this lawsuit, Plaintiff claims non-compliance with requirements of the California Labor Code relating to unpaid wages arising from Plaintiff’s access to Land Forms Landscape Construction, Inc.’s (“Defendant”) company vehicle. Specifically, Plaintiff alleges that Defendant failed to pay wages and overtime wages, to provide meal and rest periods, and to keep and provide accurate wages statements by not accounting for the time using the company vehicle. Plaintiff is seeking civil penalties on behalf of the California Labor and Workforce Development Agency (“LWDA”) and other aggrieved employees under the Private Attorneys General Act (“PAGA”). The Court has not made a determination about Plaintiff’s wage allegations. This Notice is not to be understood as an expression of any opinion by the Court as to the merits of the claim. Defendant enters into this Settlement with no admission of liability and solely for the purposes of compromising and settling the action to avoid the cost and operational burden of continued litigation. You are receiving this Notice because you are in the group of employees referred to as “Aggrieved Employees,” which is defined as: all current and former non-exempt “field laborers, general laborers, construction workers, maintenance workers, or similarly titled employees” of Defendant in California between January 24, 2019 through _____, the date the Court entered an order approving the PAGA Settlement. The “PAGA Period” is defined as January 24, 2019 through _____.

II. CALCULATION OF INDIVIDUAL PAGA PAYMENT

You worked <<PayPeriods>> pay periods during the PAGA Period. The total amount of pay periods worked by all Aggrieved Employees during the PAGA Period is 2,242. Your individual PAGA payment is estimated to be <<CheckAmount>>.

Each individual PAGA payment was calculated on a pro rata basis (*i.e.*, proportional) based on the number of pay periods worked by each Aggrieved Employee in the PAGA Period divided by the total number of pay periods worked by all Aggrieved Employees.

III. RELEASE

“Released Parties” means Land Forms Landscape Construction, Inc. and its former, present and future owners, parents, and subsidiaries including Jeff Tracy, Inc., and all of their current,

former, and future officers including Jeff Tracy, directors, members, managers, employees, consultants, partners, shareholders, joint venturers, agents, successors, assigns, accountants, insurers, or legal representatives. The Court has approved the parties' Settlement Agreement ("Settlement"). By operation of the Settlement's terms, all Aggrieved Employees will release the Released Parties from any and all claims under the PAGA which arose during the PAGA Period and (i) were asserted in the LWDA Letter and Plaintiff's Complaint; and/or (ii) reasonably could have been asserted in the Action based upon the facts alleged in the LWDA Letter and Plaintiff's Complaint ("PAGA Released Claims"). The PAGA Released Claims include, but are not limited to, claims under the PAGA based on Defendant's alleged failure to pay proper wages and provide accurate wage statements in violation of Labor Code Sections 201, 202, 203, 226(a), 226.3, 226.7, 226.8, 510, 551, 552, 558, 558.1, 1102.5, 1174, 1174.5, 1194, and 1199, as well as claims for attorneys' fees, costs, or interest resulting therefrom. Upon entry of the Order approving the Settlement, any Aggrieved Employee covered by this Agreement will be barred from proceeding with any claim released by this Settlement.

IV. SETTLEMENT ADMINISTRATOR

PLEASE DO NOT CALL THE COURT ABOUT THIS NOTICE.

You may call the Settlement Administrator, ILYM Class Action Administrators toll free at 1(888) 250-6810 with any questions. You must inform the Settlement Administrator of any change of address to ensure receipt of your settlement payment. Settlement checks will be null and void 180 days after issuance if not deposited or cashed. In such event, the Settlement Administrator shall direct all unclaimed funds to the California Department of Industrial Relations Unpaid Wage Fund in the name of the Aggrieved Employee to whom the check was issued. If your check is lost or misplaced, you should contact the Settlement Administrator immediately to request a replacement.



TRANSLATION CERTIFICATION

Arriva Translations certifies that the attached document listed below has been translated by a skilled and qualified translator. Further, Arriva Translations has no involvement or interest in this matter other than providing an accurate translation.

Document Title	All 2 pages of Notice of PAGA Settlement and Release of Claims
Summary/Description	Certified English to Spanish Translation of Notice of PAGA Settlement and Release of Claims
Number of Pages	2
Originating Language	English
Translator	Cameron Hubiak Certification Number: 301274
Date	11-19- 2021
Project Manager	Jansen Trojacek



**Aviso de Conciliación y Exoneración de Reclamos conforme
a la Ley del Procurador General Privado de California
(Conocido en ingles como PAGA)**

***Jose Arevalo contra Land Forms Landscape Construction, Inc. y otros, caso n.º 30-2020-
01143299-CU-OE-CJC***

<<Nombre del Empleado>>
<<Dirección1>> <<Dirección2>>
<<Ciudad>>, <<Estado>> <<Código postal>>
XX - XX - <<W9SSN>>

**I. AVISO DE CONCILIACIÓN CONFORME A LA LEY DEL PROCURADOR
GENERAL PRIVADO DE CALIFORNIA (PAGA)**

El Tribunal Superior del Condado de Orange (el “Tribunal”) ha aprobado una conciliación en la acción mencionada previamente y presentada por Jose Arevalo (“Demandante”) en representación propia y de todos los demás empleados damnificados. En esta demanda, el Demandante reclama el incumplimiento del Código Laboral de California con relación a los salarios impagos que surjan como consecuencia del acceso por parte del Demandante al vehículo de la compañía Land Forms Landscape Construction, Inc. (“Demandando”). Específicamente, el Demandante alega que el Demandado no cumplió con el pago de salarios y horas extras, no proporcionó períodos de descanso y comidas, ni mantuvo y proporcionó estados resúmenes salariales correctos al no incluir el tiempo utilizado en el vehículo de la compañía. El Demandante solicita que se apliquen penalidades civiles en representación de la Agencia del Desarrollo del Trabajo y Fuerza Laboral (“LWDA”) de California y otros empleados damnificados conforme a la Ley del Procurador General Privado (“PAGA”). El Tribunal no ha tomado una decisión con respecto a los alegatos en torno a los salarios por parte del Demandante. Este aviso no tiene la intención de interpretarse como una expresión de opinión por parte del Tribunal con respecto a los méritos de este reclamo. El Demandado celebra esta Conciliación sin admitir responsabilidad y exclusivamente para los fines de llegar a un acuerdo y finalizar la acción para evitar los costos e inconvenientes operativos de la continuidad del litigio. Está recibiendo este Aviso porque forma parte del grupo de empleados mencionados como “Empleados Damnificados”, que se define como: todos los empleados actuales y anteriores no exentos de “trabajadores de campo, trabajadores generales, trabajadores de construcción, mantenimiento o títulos similares”, que trabajaron para el Demandando en California entre el 24 de enero de 2019 hasta el _____, fecha en que el Tribunal presentó una orden de aprobación de la Conciliación conforme a la Ley del Procurador General Privado (“PAGA”). El “Período de PAGA” se define como iniciando el 24 de enero de 2019 y finalizando el _____.

**II. CÁLCULO DEL PAGO INDIVIDUAL CONFORME A LA LEY DEL
PROCURADOR GENERAL PRIVADO (PAGA)**

Usted trabajó <<Períodos de Pago>> durante el Período de PAGA. La cantidad total de períodos de pago trabajados por todos los Empleados Damnificados durante el Período de PAGA es de

2,242. Su pago individual conforme a la Ley del Procurador General Privado (PAGA) está estimado en <<Monto del Cheque>>.

Cada pago conforme a la Ley del Procurador General Privado (PAGA) se calculó de un modo prorrateado (es decir, proporcional) de acuerdo a la cantidad de períodos de pago trabajados por cada Empleado Damnificado en el Período de PAGA, dividido por la cantidad total de períodos de pago trabajados por todos los Empleados Damnificados.

III. EXONERACIÓN DE RECLAMOS

“Partes Exoneradas” hace referencia a Lands Forms Landscape Construction, Inc. y a sus propietarios, compañías matrices y subsidiarias pasadas, presentes y futuras, incluso Jeff Tracy, Inc., así como a todos los funcionarios pasados, presentes y futuros, incluso Jeff Tracy, directores, miembros, gerentes, empleados, consultores, socios, accionistas, aliados estratégicos, agentes, sucesores, cesionarios, contadores, aseguradoras o representantes legales. El Tribunal ha aprobado el Acuerdo de Conciliación entre las partes (“Conciliación”). Al ejecutar los términos de la Conciliación, todos los Empleados Damnificados exonerarán a las Partes Exoneradas por todos y cada uno de los reclamos conforme a la Ley del Procurador General Privado (PAGA) que surgieron durante el Período de PAGA y (i) fueron aseverados en la Carta de la Agencia del Desarrollo del Trabajo y Fuerza Laboral (LWDA) y en el Reclamo del Demandante; y/o (ii) podrían razonablemente haber sido aseverados en la Acción conforme a los hechos alegados en Carta de la Agencia del Desarrollo del Trabajo y Fuerza Laboral (LWDA) y en el Reclamo del Demandante (“Reclamos Exonerados conforme a PAGA”). Los Reclamos Exonerados conforme a PAGA incluyen, entre otros, los reclamos de conformidad con la ley PAGA en donde el Demandado presuntamente no cumplió con el pago de salarios ni la entrega de resúmenes salariales correspondientes, incumpliendo de ese modo las secciones 201, 202, 203, 226(a), 226.3, 226.7, 226.8, 510, 551, 552, 558, 558.1, 1102.5, 1174, 1174.5, 1194 y 1199 del Código Laboral, así como los reclamos por costos y honorarios de los abogados, u otros intereses que resulten de allí. Al ingresar la orden que aprueba la Conciliación, cada Empleado Damnificado cubierto por este Acuerdo no podrá presentar ningún reclamo exonerado mediante esta Conciliación.

IV. ADMINISTRADOR DE LA CONCILIACIÓN

LE SOLICITAMOS QUE NO LLAME AL TRIBUNAL PARA CONSULTAR SOBRE ESTE AVISO.

Puede llamar sin cargo al Administrador de la Conciliación, ILYM Class Action Administrators, al número gratuito 1(888) 250-6810 si tiene alguna pregunta. Debe informar al Administrador de la Conciliación ante cualquier cambio de dirección para verificar que se haya recibido el pago de la conciliación. Los cheques de la Conciliación perderán validez 180 días después de ser emitidos si no se cobran o depositan. En ese caso, el Administrador de la Conciliación dirigirá todos los fondos no reclamados al Fondo de Salarios Impagos del Departamento de Relaciones Industriales de California a nombre del Empleado Damnificado a cuyo nombre se emitió el cheque. Si pierde o no encuentra su cheque, deberá contactarse con el Administrador de la Conciliación de inmediato para solicitar su respectiva reposición.

CERTIFICATE OF TRANSLATION

I, the undersigned declare:

I am a Certified Court Interpreter and Translator, certified by the Judicial Council of the State of California (State ID: 301274); I am fluent in both Spanish and English, and I have personally translated the following from English into Spanish:

Document description:

1. Notice of PAGA and Release of Claims regarding *Jose Arevalo v. Land Forms Landscape Construction, Inc., et al.*, Case No. 30-2020-01143299-CU-OE-CJC

I declare under penalty of perjury under the laws of the State of California that I personally translated the above-mentioned document and that it is true, accurate and complete to the best of my ability and knowledge.

Executed on November 18, 2021
Los Angeles, CA

A handwritten signature in black ink, appearing to read 'Cameron Hubiak', with a stylized, cursive script.

Cameron Hubiak

1 **PROOF OF SERVICE**

2
3 **STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

4 At the time of service, I was over 18 years of age and not a party to this action. I am
5 employed in the County of Los Angeles, State of California. My business address is 2361 Rosecrans
Ave., Suite 475, El Segundo, CA 90245.

6 On November 19, 2021, I served true copies of the following document(s) described as
7 **[PROPOSED] JUDGMENT GRANTING APPROVAL OF PRIVATE ATTORNEYS**
8 **GENERAL ACT (LABOR CODE § 2698) SETTLEMENT AGREEMENT** on the interested
parties in this action as follows:

9 Pouya B. Chami, Esq.
10 CHAMI LAW, PC
11845 W. Olympic Blvd., Suite 700
Los Angeles, CA 90064

Attorneys for Plaintiff
JOSE AREVALO, an individual

11 Telephone: (310) 484-5001
12 Facsimile: (310) 484-5002
13 Email: *pchami@chamilaw.com*

14 Jeff Tracy
15 1901 E. Carnegie Ave., #E
16 Santa Ana, CA 92705

In Pro Per

17 Telephone: (949) 582-0877
18 Email: *j.tracy@landformslandscaping.com*

19 ☒ **BY OVERNIGHT DELIVERY:** I enclosed said document(s) in an envelope or package
20 provided by the overnight service carrier and addressed to the persons at the addresses listed in the
Service List. I placed the envelope or package for collection and overnight delivery at an office or
a regularly utilized drop box of the overnight service carrier or delivered such document(s) to a
courier or driver authorized by the overnight service carrier to receive documents.

21 I declare under penalty of perjury under the laws of the State of California that the foregoing
22 is true and correct.

23 Executed on November 19, 2021, at El Segundo, California.

24 
25 DIANE BRANCHE