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Attorneys for Plaintiff

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE**

MANUEL CHAVEZ, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

TROPICAL PLAZA NURSERY, INC., a
California Corporation; and DOES 1 through
100,

Defendants.

Case No. 30-2020-01122820-CU-OE-CXC

*[Assigned for all purposes to Hon. Peter
Wilson; Dept. CX-102]*

**DECLARATION OF SEAN M. BLAKELY
IN SUPPORT OF PLAINTIFF'S
SUPPLEMENTAL BRIEF IN SUPPORT
OF PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

Date: May 13, 2021

Time: 2:00 p.m.

Dept: CX-102

Complaint filed: January 9, 2020

Trial Date: None Set

1 I, SEAN M. BLAKELY, declare as follows:

2 1. I am a Partner at the Haines Law Group, APC, and counsel for the named Plaintiff
3 Manuel Chavez (“Plaintiff”) and the proposed Settlement Class in the above-captioned matter. I
4 am a member in good standing of the bar of the State of California and am admitted to practice
5 in this Court. I have personal knowledge of the facts stated in this declaration and could testify
6 competently to them if called upon to do so.

7 2. This declaration is submitted in support of Plaintiff’s Supplemental Brief in
8 Support of Plaintiff’s Motion for Preliminary Approval of Class Action Settlement.

9 3. Following the Court’s Ruling Re Plaintiff’s Motion for Preliminary Approval for
10 Class Action Settlement dated April 8, 2021 (the “Ruling”), my firm has worked diligently with
11 defense counsel to amend the Stipulation of Settlement (“Settlement Agreement”), Notice of
12 Pendency of Class Action and Proposed Settlement (“Class Notice”), and the Notice of Estimated
13 Settlement Award in accordance with the Court’s Ruling.

14 4. Attached hereto as **Exhibit 1** is the fully executed Amendment to the Settlement
15 Agreement. Attached hereto as **Exhibit 2** is the final version of the Class Notice. Attached hereto
16 as **Exhibit 3** is the final version of the Notice of Estimated Settlement Award. Attached hereto
17 as **Exhibit 4** is a red-line version of the amended Class Notice reflecting all changes. Attached
18 hereto as **Exhibit 5** is a red-line version of the amended Notice of Estimated Settlement Award
19 reflecting all changes.

20 5. Attached hereto as **Exhibit 6** is a true and correct Plaintiff’s January 13, 2020
21 PAGA letter.

22 6. Attached hereto as **Exhibit 7** is a true and correct copy of the certified transcription
23 of the Spanish version of the Class Notice.

24 7. Attached hereto as **Exhibit 8** is a red-line version of the [Proposed] Order
25 reflecting all changes.

26 8. Plaintiff is not aware of any other related actions which assert similar claims or
27 causes of action against Defendant. Defense counsel has represented that Defendant has not been
28 served with any other actions which assert similar claims or causes of action.

9. In connection with his Motion for Final Approval of Class Action Settlement, Plaintiff will submit Class Counsel's billing records for attorneys' fees and costs, and will provide information regarding any fee-split agreement. Plaintiff will also provide a declaration addressing the enhancement factors identified by the Court and case law.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on May 4, 2021, at El Segundo, California.


Sean M. Blakely

EXHIBIT 1

HAINES LAW GROUP, APC

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Attorneys for Defendant

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE**

MANUEL CHAVEZ, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

TROPICAL PLAZA NURSERY, INC., a
California Corporation; and DOES 1 through
100,

Defendants.

Case No. 30-2020-01122820-CU-OE-CXC

*[Assigned for all purposes to the Hon. Peter
Wilson, Dept. CX-102]*

**AMENDMENT TO STIPULATION OF
SETTLEMENT**

Complaint Filed: January 9, 2020

Trial Date: None Set

1 **AMENDMENT TO STIPULATION OF SETTLEMENT**

2 The Stipulation of Settlement (“Settlement Agreement”) entered into and effective as of
3 February 17, 2021, by and between Plaintiff Manuel Chavez (“Plaintiff”), for himself and on
4 behalf of the proposed Settlement Class, and Defendant Tropical Plaza Nursery, Inc.
5 (“Defendant”) (Plaintiff and Defendant are collectively referred to as “the Parties”), is hereby
6 amended and modified as follows:

7 **Section 3(D)(2):** is hereby deleted and replaced in its entirety with the following “All
8 costs of the Settlement Administrator and settlement administration, which are anticipated to be
9 no greater than Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00).”
10

11 **Section 7: Settlement Administrator** is hereby deleted and replaced in its entirety with
12 the following: “Defendant will not object to the appointment of Phoenix Settlement
13 Administrators as Settlement Administrator. Defendant will not object to Plaintiff seeking
14 permission to pay up to Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00) for
15 its services from the Gross Settlement Amount. The Settlement Administrator shall be
16 responsible for sending notices and for calculating Settlement Awards and preparing all checks
17 and mailings, calculating Defendant’s share of taxes payable on the wages, and other duties as
18 described in this Settlement Agreement. The Settlement Administrator shall be authorized to pay
19 itself from the Gross Settlement Amount by Class Counsel only after Settlement Awards have
20 been mailed to all participating Settlement Class members. The Settlement Administrator shall
21 also give notice of final judgment by posting the final judgment to its website.
22

23 **Section 9(D):** **Objections** is hereby deleted and replaced in its entirety with the
24 following “Settlement Class members who do not request exclusion may object to this Settlement
25 Agreement as explained in the Class Notice by filing a written objection with the Settlement
26 Administrator (who shall serve all objections as received on Class Counsel and Defendant’s
27 counsel via e-mail, as well as file all such objections with the Court). Defendant’s counsel and
28 Class Counsel shall file any responses to objections no later than the deadline to file the Motion

1 for Final Approval, unless the objections are filed within ten (10) days of the Motion for Final
2 Approval filing deadline, in which case Defendant's counsel and Class Counsel shall have ten
3 (10) days from the date of service of the objections by the Settlement Administrator to file a
4 response to the objections. All objections should contain the objecting Settlement Class member's
5 full name and current address, as well as contact information for any attorney representing the
6 objecting Settlement Class member for purposes of the objection. Settlement Class members may
7 also appear at the final approval hearing to orally object, even if they have not submitted a written
8 objection.

9
10 **Section (9)(E): Notice of Estimated Settlement Award / Disputes** is hereby deleted and
11 replaced in its entirety with the following: "Each Notice Packet mailed to a Settlement Class
12 member shall disclose the amount of the Settlement Class member's estimated Settlement Award
13 as well as all of the information that was used from Defendant's records in order to calculate the
14 Settlement Award, including the Settlement Class member's number of Workweeks worked
15 during the Class Period, whether the Settlement Class member's employment with Defendant
16 ended during the time period of January 9, 2017 to the date of preliminary approval, and the
17 number of workweeks worked from January 9, 2019 to the date of preliminary approval.
18 Settlement Class members will have the opportunity, should they disagree with Defendant's
19 records regarding the information stated in the Notice of Estimated Settlement Award, to provide
20 documentation and/or an explanation to show contrary information. Any such dispute, including
21 any supporting documentation, must be mailed to the Settlement Administrator and postmarked
22 by the Response Deadline. The Parties shall file all disputes submitted by Settlement Class
23 members, along with any evidence submitted and any initial determination by the Settlement
24 Administrator, with the Court. If there is a dispute, the Settlement Administrator will consult with
25 the Parties to determine whether an adjustment is warranted. The Settlement Administrator shall
26 initially determine the eligibility for, and the amounts of, any Settlement Awards under the terms
27 of this Settlement Agreement. However, the Court shall have the right to review the Settlement
28 Administrator's initial determination, and the Court shall make the final determination regarding

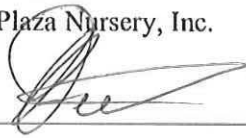
1 the eligibility for and amount of any Settlement Award, and the Court's determination shall be
2 binding upon the Settlement Class member and the Parties."

3 In all other respects, the Settlement Agreement entered into on or about February 17, 2021
4 remains unchanged and in full force and effect.

5 **AGREED TO AND ACCEPTED.**

6
7 DATED: May 4, 2021

Tropical Plaza Nursery, Inc.

8
9 By: 

10 DATED:

Manuel Chavez

11 **May 3, 2021**



12 By: Manuel Chavez (May 3, 2021 11:33 PDT)
13 Plaintiff and Settlement Class Representative

14 **APPROVED AS TO FORM:**

15
16 DATED: May 4, 2021

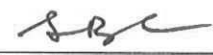
WALRAVEN & WESTERFELD, LLP

17
18 By: 

19 Brian Selvan
Attorneys for Defendant

20 DATED: *May 3, 2021*

HAINES LAW GROUP, APC

21
22 By: 

23 Paul K. Haines
24 Sean M. Blakely
Attorneys for Plaintiff

EXHIBIT 2

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ORANGE

MANUEL CHAVEZ, as an individual and on behalf of
all others similarly situated,

Plaintiff,

vs.

TROPICAL PLAZA NURSERY, INC., a California
Corporation; and DOES 1 through 100,

Defendants.

Case No. 30-2020-01122820-CU-OE-CXC

**NOTICE OF PENDENCY OF CLASS
ACTION AND PROPOSED SETTLEMENT**

To: All current and former non-exempt employees who are or were employed by Tropical Plaza Nursery, Inc. in the position of field worker in the State of California during the time period of January 9, 2016 through <<PRELIM APPROVAL DATE>> ("Class Period").

**PLEASE READ CAREFULLY
YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR NOT
THIS NOTICE IS BEING PROVIDED TO YOU IN ENGLISH AND SPANISH**

Why should you read this Notice?

The Court has granted preliminary approval of a proposed settlement (the "Settlement") in the matter of *Manuel Chavez v. Tropical Plaza Nursery, Inc.*, Orange County Superior Court Case No. 30-2020-01122820-CU-OE-CXC (the "Action"). Because your rights may be affected by the Settlement, it is important that you read this Notice carefully.

You may be entitled to money from this Settlement. Tropical Plaza Nursery, Inc.'s ("Tropical Plaza") records show that you were employed at Tropical Plaza as a non-exempt employee in the position of field worker in California between January 9, 2016 and <<PRELIM APPROVAL DATE>> (the "Class Period"). The Court ordered that this Notice be sent to you because you may be entitled to money under the Settlement and because the Settlement affects your legal rights.

The purpose of this Notice is to provide you with a brief description of the Action, to inform you of the terms of the Settlement, to describe your rights in connection with the Settlement, and to explain what steps you may take to participate in, object to, or exclude yourself from the Settlement. If you do not exclude yourself from the Settlement and the Court finally approves the Settlement, you will be bound to the terms of the Settlement and any final judgment.

What is this case about?

Plaintiff Manuel Chavez ("Plaintiff") brought this Action against Tropical Plaza on a class and representative action basis on behalf of a class of non-exempt employees in the position of field worker within the State of California who are or were employed by Tropical Plaza from January 9, 2016, through <<PRELIM APPROVAL DATE>>. Plaintiff is known as the "Class Representative," and his attorneys, who also represent the interests of all Settlement Class members, are known as "Class Counsel."

Plaintiff alleges that Tropical Plaza failed to pay Settlement Class members all minimum and overtime wages owed; failed to provide all meal periods in accordance with California law; failed to authorize and permit all rest periods in accordance with California law; failed to timely pay all wages owed upon separation of employment; and failed to furnish accurate and itemized wage statements to Settlement Class members. As a result of the foregoing alleged violations, Plaintiff alleges that Tropical Plaza engaged in unfair business practices and is liable for civil penalties under the Labor Code Private Attorneys General Act ("PAGA").

Tropical Plaza denies Plaintiff's claims and denies that it has violated any laws or done anything wrong. Tropical Plaza also denies that it owes Settlement Class members any wages, restitution, penalties, damages, or other amounts. Accordingly, the Settlement constitutes a compromise of disputed claims and should not be construed as an admission of liability on the part of Tropical Plaza, by whom all liability is expressly denied.

The Court has not ruled on the merits of Plaintiff's claims. However, to avoid additional expense, inconvenience, and interference with its business operations, Tropical Plaza has agreed to settle the Action on the terms summarized in this Notice. After Class Counsel had the opportunity to review certain relevant information, the Settlement was reached after mediation and arm's length negotiations between the parties.

The Class Representative and Class Counsel support the Settlement. Among the reasons for support are the defenses to liability potentially available to Tropical Plaza, the risk of denial of class certification, the inherent risk of trial on the merits, and the delays and uncertainties associated with ongoing litigation.

If you are still employed by Tropical Plaza, your decision about whether to participate in the Settlement will not affect your employment. California law and Tropical Plaza's policy strictly prohibit unlawful retaliation. Tropical Plaza will not take any adverse employment action against or otherwise target, retaliate, or discriminate against any Settlement Class member because of his/her decision to either participate or not participate in the Settlement.

Who are the Attorneys?

Attorneys for Plaintiff/Settlement Class: HAINES LAW GROUP, APC Paul K. Haines phaines@haineslawgroup.com Sean M. Blakely sblakely@haineslawgroup.com 2155 Campus Drive, Suite 180 El Segundo, California 90245 Tel: (424) 292-2350 Fax: (424) 292-2355 haineslawgroup.com	Attorneys for Tropical Plaza: Walraven & Westerfeld, LLP Brian A. Selvan bselvan@walravenlaw.com 20 Enterprise, Suite 310 Aliso Viejo, California 92656 Tel: (949) 215-1990 Fax: (949) 215-1999 www.walravenlaw.com
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What are the terms of the Settlement?

On <<PRELIM APPROVAL DATE>>, the Court preliminarily certified a class, for settlement purposes only, of all current and former non-exempt employees who are or were employed by Tropical Plaza in the position of field worker in the State of California from January 9, 2016 through <<PRELIM APPROVAL DATE>>. Settlement Class members who do not opt out of the Settlement pursuant to the procedures set forth in this Notice will be bound by the Settlement and will release their claims against Tropical Plaza as described below.

Tropical Plaza has agreed to pay \$400,000.00 (the "Gross Settlement Amount") to fully resolve all claims in the Action, including payments to Settlement Class members, Class Counsel's attorneys' fees and expenses, settlement administration costs, payment to the Labor & Workforce Development Agency ("LWDA") for its share of civil penalties under the PAGA, and the Class Representative enhancement payment.

The following deductions from the Gross Settlement Amount will be requested by the parties:

Attorneys' Fees and Expenses. Class Counsel have been prosecuting the Action on behalf of Settlement Class members on a contingency fee basis (that is, without being paid any money to date) and have been paying all litigation costs and expenses. The Court will determine the actual amount awarded to Class Counsel as attorneys'

fees, which will be paid from the Gross Settlement Amount. Settlement Class members are not personally responsible for any of Class Counsel's attorneys' fees or expenses. Class Counsel will ask for up to one-third of the Gross Settlement Amount, which is currently estimated at \$133,333.33, as reasonable compensation for the work Class Counsel performed and will continue to perform in this Action through Settlement finalization. Class Counsel also will ask for reimbursement of up to \$20,000.00 in verified costs incurred in connection with the Action.

Settlement Administration Costs. The Court has approved Phoenix Settlement Administrators to act as the "Settlement Administrator," who is sending this Notice to you and will perform many other duties relating to the Settlement. The Parties request setting aside up to \$7,500.00 from the Gross Settlement Amount to pay the settlement administration costs.

Class Representative Enhancement Payment. Class Counsel will ask the Court to award the Class Representative an enhancement payment in the amount of \$5,000.00 to compensate him for his service and extra work provided on behalf of the Settlement Class.

PAGA Payment to State of California. The parties have agreed to allocate \$20,000.00 towards the Settlement of the PAGA claims in the Action. \$15,000.00 will be paid to the State of California Labor & Workforce Development Agency, representing its 75% share of the civil penalties. The remaining \$5,000.00 will be allocated to Settlement Class members as described below.

Calculation of Individual Settlement Class Members' Settlement Awards. After deducting the Court-approved amounts above, the balance of the Gross Settlement Amount will form the Net Settlement Amount, which will be distributed to all Settlement Class members who do not submit a valid and timely Request for Exclusion from the Settlement. The Net Settlement Amount is estimated at approximately \$216,666.67, and will be divided as follows:

- (i) 85% of the Net Settlement Amount will be allocated to all participating Settlement Class members in proportion to the number of workweeks that he or she worked during the Class Period.
- (ii) 10% of the Net Settlement Amount shall be designated as the "Waiting Time Amount" and will be allocated in equal amounts to all participating Settlement Class members whose employment with Tropical Plaza ended at any time between January 9, 2017 through <<PRELIM APPROVAL DATE>>.
- (iii) 5% of the Net Settlement Amount shall be designated as the "Wage Statement Amount." Each participating Settlement Class member who was employed by Tropical Plaza at any time from January 9, 2019 to <<PRELIM APPROVAL DATE>> shall receive a portion of the Wage Statement Amount proportionate to the number of workweeks that he or she worked during the time period of January 9, 2019 to <<PRELIM APPROVAL DATE>>.
- (iv) \$5,000.00 of the Gross Settlement Amount has been designated as the "PAGA Amount." Each participating Settlement Class member who was employed by Tropical Plaza at any time from January 9, 2019 to <<PRELIM APPROVAL DATE>> shall receive a portion of the PAGA Amount proportionate to the number of workweeks that he or she worked during the time period of January 9, 2019 to <<PRELIM APPROVAL DATE>>.

Payments to Settlement Class members. If the Court grants final approval of the Settlement, individual Settlement Awards will be mailed to all Settlement Class members who did not submit a valid and timely Request for Exclusion from the Settlement. Settlement checks will be valid for 180 days. Any checks that were not cashed within 180 days will escheat to the California State Controller Unclaimed Property Fund in the name of the Settlement Class member.

Allocation and Taxes. For tax purposes, each Settlement Award shall be treated as follows: 20% as "wages," for which an IRS Form W-2 will be issued; and 80% as "penalties" and "interest" for which an IRS Form 1099 will be issued. Settlement Class members are responsible for the proper income tax treatment of the individual Settlement Awards. The Settlement Administrator, Tropical Plaza and its counsel, and Class Counsel cannot provide tax advice.

Accordingly, Settlement Class members should consult with their tax advisors concerning the tax consequences and treatment of payments they receive under the Settlement.

Release. If the Court approves the Settlement, Plaintiff and every member of the Settlement Class (except those who opt out) will fully release and discharge Tropical Plaza, and all of its present and former officers, directors, employees, shareholders, agents, trustees, representatives, attorneys, insurers, reinsurers, parent companies, subsidiaries, divisions, affiliates, predecessors, successors, as well as any individual or entity that could be jointly liable with Defendant (collectively the “Released Parties”), from all claims, causes of action, and legal theories alleged or which could have been alleged based on the facts in the operative First Amended Class and Representative Action Complaint (“FAC”), including: (a) failure to pay all overtime wages; (b) failure to pay all minimum wages; (c) failure to authorize and permit all rest periods in accordance with California law; (d) failure to provide all meal periods in accordance with California law; (e) failure to furnish accurate and itemized wage statements; (f) failure to pay all wages owed upon separation of employment; (g) all claims for unfair business practices that could have been premised on the facts, claims, causes of action or legal theories of relief pled in the FAC; (h) all claims for civil penalties under the PAGA that were or could have been alleged based on the claims, causes of action or legal theories described above or on any of the claims, causes of action, or legal theories of relief pled in the FAC; and (i) all damages, penalties, interest, costs (including attorney’s fees), and other amounts recoverable under said claims or causes of action as to the facts and/or legal theories alleged or which could have been alleged in the FAC (collectively, the “Released Claims”). The period of the Release shall extend to the limits of the Class Period.

Conditions of Settlement. The Settlement is conditioned upon the Court entering an order at or following the Final Approval Hearing finally approving the Settlement as fair, reasonable, adequate, and in the best interests of the Settlement Class, and the entry of a Judgment.

How can I claim money from the Settlement?

Do Nothing. If you do nothing, you will be entitled to your share of the Settlement based on the proportionate number of workweeks you worked during the Class Period, whether you have separated employment from Tropical Plaza between January 9, 2017 and <<PRELIM APPROVAL DATE>>, and the proportionate number of workweeks you worked between January 9, 2019 and <<PRELIM APPROVAL DATE>>, as stated in the accompanying Notice of Estimated Settlement Award. You also will be bound by the Settlement, including the release of claims stated above.

What other options do I have?

Dispute Information in Notice of Estimated Settlement Award. Your award is based on the proportionate number of workweeks you worked during the Class Period, whether you have separated employment from Tropical Plaza between January 9, 2017 and <<PRELIM APPROVAL DATE>>, and the proportionate number of workweeks you worked between January 9, 2019 and <<PRELIM APPROVAL DATE>>. The information contained in Tropical Plaza’s records regarding each of these factors, along with your estimated Settlement Award, is listed on the accompanying Notice of Estimated Settlement Award. If you disagree with the information in your Notice of Estimated Settlement Award, you may submit a dispute, along with any supporting documentation, in accordance with the procedures stated in the Notice of Estimated Settlement Award. Any disputes, along with supporting documentation, must be postmarked no later than <<RESPONSE DEADLINE>>. **DO NOT SEND ORIGINALS; DOCUMENTATION SENT TO THE SETTLEMENT ADMINISTRATOR WILL NOT BE RETURNED OR PRESERVED.**

The Parties and the Settlement Administrator will evaluate the evidence submitted and discuss in good faith how to resolve any disputes submitted by Settlement Class members. The Settlement Administrator shall make an initial determination regarding any disputes submitted by Settlement Class members, however, the Court shall have the right to review the Settlement Administrator’s initial determination and the Court shall make the final decision regarding any dispute submitted by Settlement Class members.

Exclude Yourself from the Settlement. If you **do not** wish to take part in the Settlement, you may exclude yourself by sending to the Settlement Administrator an executed Request for Exclusion Form no later than <<RESPONSE DEADLINE>>, with your name, address, telephone number, last four digits of your social security number, and your signature. A Request for Exclusion Form is included with this Notice.

Send the Request for Exclusion Form directly to the Settlement Administrator at <<INSERT ADMINISTRATOR CONTACT INFO>>. Any person who submits a timely Request for Exclusion Form shall, upon receipt by the Settlement Administrator, no longer be a Settlement Class member, shall be barred from participating in any portion of the Settlement, and shall receive no benefits from the Settlement. **Do not submit both a Dispute and a Request for Exclusion.** If you do, the Request for Exclusion will be invalid, you will be included in the Settlement Class, and you will be bound by the terms of the Settlement.

Objecting to the Settlement. You also have the right to object to the terms of the Settlement. However, if the Court rejects your objection, you will still be bound by the terms of the Settlement. If you wish to object to the Settlement, or any portion of it, you may mail a written objection to the Settlement Administrator at <<INSERT ADMINISTRATOR CONTACT INFO>>. All objections and correspondence must be sent directly to the Settlement Administrator, please do not send objections or correspondence to the Court. Any objections will be provided to the Court by Plaintiff in connection with the Final Approval Hearing. Your written objection should include your name, address, as well as contact information for any attorney representing you regarding your objection, and the case name and number. Objections should be in writing and must be postmarked on or before <<RESPONSE DEADLINE>>. Notwithstanding the foregoing, you do not need to object in writing to be heard at the Final Approval Hearing.

You may also appear at the Final Approval Hearing scheduled for September 30, 2021 at 2:00 p.m. in Department CX102 of the Orange County Superior Court, located at 751 West Santa Ana Boulevard, Santa Ana, California 92701. You have the right to appear either in person or through your own attorney at this hearing. All objections or other correspondence must state the name and number of the case, which is *Manuel Chavez v. Tropical Plaza Nursery, Inc.*, Orange County Superior Court Case No. 30-2020-01122820-CU-OE-CXC.

If you object to the Settlement, you will remain a member of the Settlement Class, and if the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as Settlement Class members who do not object.

What is the next step?

The Court will hold a Final Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement on September 30, 2021 at 2:00 p.m. in Department CX102 of the Orange County Superior Court, located at 751 West Santa Ana Boulevard, Santa Ana, California 92701. The Court will also be asked to rule on Class Counsel's request for attorneys' fees and reimbursement of documented costs and expenses, and the Class Representative enhancement payment. The Final Approval Hearing may be postponed without further notice to Settlement Class members. **You are not required to attend the Final Approval Hearing, although any Settlement Class member is welcome to attend the hearing.**

If the Court grants Final Approval, the Court will issue a final judgment which shall be posted on the Settlement Administrator's website (<http://www.phoenixclassaction.com>).

How can I get additional information?

This Notice is only a summary of the Action and the Settlement. For more information, you may inspect the Court's files and the Settlement Agreement at the Office of the Clerk of the Orange County Superior Court, located at 751 West Santa Ana Boulevard, Santa Ana, California 92701, during regular court hours. You may also visit the Orange County Superior Court website at www.occourts.org to inspect the Court's files by going to the "Online Case Access" tab, selecting "Civil Case & Document Access," and entering the case number information. You may also contact Class Counsel using the contact information listed above for more information.

PLEASE DO NOT CALL OR WRITE TO THE COURT, TROPICAL PLAZA, OR ITS ATTORNEYS FOR INFORMATION ABOUT THIS SETTLEMENT OR THE SETTLEMENT PROCESS

REMINDER AS TO TIME LIMITS

The deadline for submitting any Disputes, Requests for Exclusion, or Objections is **<<RESPONSE DEADLINE>>**. These deadlines will be strictly enforced.

EXHIBIT 3

NOTICE OF ESTIMATED SETTLEMENT AWARD

MANUEL CHAVEZ V. TROPICAL PLAZA NURSERY, INC.
ORANGE COUNTY SUPERIOR COURT CASE NO. 30-2020-01122820-CU-OE-CXC

Please complete and return this Form to <<ADMINISTRATOR CONTACT INFO>> **ONLY IF** (1) your personal contact information has changed, and/or (2) you wish to dispute any of the items listed in Section (III), below. It is your responsibility to keep a current address on file with the Settlement Administrator.

(I) Please type or print your name:

(First, Middle, Last)

(II) Please type or print the following identifying information if your contact information has changed:

Former Names (if any)

New Street Address

City

State

Zip Code

(III) Information Used to Calculate Your Settlement Award:

According to Tropical Plaza Nursery, Inc.'s ("Tropical Plaza") records:

- (a) you worked for Tropical Plaza in California from _____ to _____;
- (b) you worked _____ Workweeks between January 9, 2016, and <<PRELIM APPROVAL DATE>>, for Tropical Plaza;
- (c) you worked _____ Workweeks between January 9, 2019 and <<PRELIM APPROVAL DATE>>, for Tropical Plaza; and
- (d) your employment with Tropical Plaza <<DID/DID NOT>> end between January 9, 2017 and <<PRELIM APPROVAL DATE>>.

Based on the above, your Settlement Award is estimated at \$ _____.

(IV) If you disagree with items (a), (b), (c), and/or (d) in Section (III) above, please explain why in the space provided below and include copies of any supporting evidence or documentation with this Form:

If you dispute the above information from Tropical Plaza's records, please provide documentation that establishes that Tropical Plaza's records are mistaken. If there is a dispute about whether Tropical Plaza's information or yours is accurate, the dispute will be submitted to the Parties and the Settlement Administrator as described in the "Notice of Pendency of Class Action and Proposed Settlement" that accompanies this Form. The Court shall have the right to review the Settlement Administrator's initial determination and will make a final determination regarding any disputes submitted by Settlement Class members.

**ANY DISPUTES, ALONG WITH ANY SUPPORTING DOCUMENTATION, MUST BE POSTMARKED
NO LATER THAN <<RESPONSE DEADLINE>>.**

EXHIBIT 4

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ORANGE

MANUEL CHAVEZ, as an individual and on behalf of
all others similarly situated,

Plaintiff,

vs.

TROPICAL PLAZA NURSERY, INC., a California
Corporation; and DOES 1 through 100,

Defendants.

Case No. 30-2020-01122820-CU-OE-CXC

**NOTICE OF PENDENCY OF CLASS
ACTION AND PROPOSED SETTLEMENT**

To: All current and former non-exempt employees who are or were employed by Tropical Plaza Nursery, Inc. in the position of field worker in the State of California during the time period of January 9, 2016 through <<PRELIM APPROVAL DATE>> (“Class Period”).

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Why should you read this Notice?

The Court has granted preliminary approval of a proposed settlement (the “Settlement”) in the matter of *Manuel Chavez v. Tropical Plaza Nursery, Inc.*, Orange County Superior Court Case No. 30-2020-01122820-CU-OE-CXC (the “Action”). Because your rights may be affected by the Settlement, it is important that you read this Notice carefully.

You may be entitled to money from this Settlement. Tropical Plaza Nursery, Inc.’s (“Tropical Plaza”) records show that you were employed at Tropical Plaza as a non-exempt employee in the position of field worker in California between January 9, 2016 and <<PRELIM APPROVAL DATE>> (the “Class Period”). The Court ordered that this Notice be sent to you because you may be entitled to money under the Settlement and because the Settlement affects your legal rights.

The purpose of this Notice is to provide you with a brief description of the Action, to inform you of the terms of the Settlement, to describe your rights in connection with the Settlement, and to explain what steps you may take to participate in, object to, or exclude yourself from the Settlement. If you do not exclude yourself from the Settlement and the Court finally approves the Settlement, you will be bound to the terms of the Settlement and any final judgment.

What is this case about?

Plaintiff Manuel Chavez (“Plaintiff”) brought this Action against Tropical Plaza on a class and representative action basis on behalf of a class of non-exempt employees in the position of field worker within the State of California who are or were employed by Tropical Plaza from January 9, 2016, through <<PRELIM APPROVAL DATE>>. Plaintiff is known as the “Class Representative,” and his attorneys, who also represent the interests of all Settlement Class members, are known as “Class Counsel.”

Plaintiff alleges that Tropical Plaza failed to pay Settlement Class members all minimum and overtime wages owed; failed to provide all meal periods in accordance with California law; failed to authorize and permit all rest periods in accordance with California law; failed to timely pay all wages owed upon separation of employment; and failed to furnish accurate and itemized wage statements to Settlement Class members. As a result of the foregoing alleged violations, Plaintiff alleges that Tropical Plaza engaged in unfair business practices and is liable for civil penalties under the Labor Code Private Attorneys General Act (“PAGA”).

Tropical Plaza denies Plaintiff's claims and denies that it has violated any laws or done anything wrong. Tropical Plaza also denies that it owes Settlement Class members any wages, restitution, penalties, damages, or other amounts. Accordingly, the Settlement constitutes a compromise of disputed claims and should not be construed as an admission of liability on the part of Tropical Plaza, by whom all liability is expressly denied.

The Court has not ruled on the merits of Plaintiff's claims. However, to avoid additional expense, inconvenience, and interference with its business operations, Tropical Plaza has agreed to settle the Action on the terms summarized in this Notice. After Class Counsel had the opportunity to review certain relevant information, the Settlement was reached after mediation and arm's length negotiations between the parties.

The Class Representative and Class Counsel support the Settlement. Among the reasons for support are the defenses to liability potentially available to Tropical Plaza, the risk of denial of class certification, the inherent risk of trial on the merits, and the delays and uncertainties associated with ongoing litigation.

If you are still employed by Tropical Plaza, your decision about whether to participate in the Settlement will not affect your employment. California law and Tropical Plaza's policy strictly prohibit unlawful retaliation. Tropical Plaza will not take any adverse employment action against or otherwise target, retaliate, or discriminate against any Settlement Class member because of his/her decision to either participate or not participate in the Settlement.

Who are the Attorneys?

Attorneys for Plaintiff/Settlement Class: HAINES LAW GROUP, APC Paul K. Haines phaines@haineslawgroup.com Sean M. Blakely sblakely@haineslawgroup.com 2155 Campus Drive, Suite 180 El Segundo, California 90245 Tel: (424) 292-2350 Fax: (424) 292-2355 haineslawgroup.com	Attorneys for Tropical Plaza: Walraven & Westerfeld, LLP Brian A. Selvan bselvan@walravenlaw.com 20 Enterprise, Suite 310 Aliso Viejo, California 92656 Tel: (949) 215-1990 Fax: (949) 215-1999 www.walravenlaw.com
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What are the terms of the Settlement?

On <<PRELIM APPROVAL DATE>>, the Court preliminarily certified a class, for settlement purposes only, of all current and former non-exempt employees who are or were employed by Tropical Plaza in the position of field worker in the State of California from January 9, 2016 through <<PRELIM APPROVAL DATE>>. Settlement Class members who do not opt out of the Settlement pursuant to the procedures set forth in this Notice will be bound by the Settlement and will release their claims against Tropical Plaza as described below.

Tropical Plaza has agreed to pay \$400,000.00 (the "Gross Settlement Amount") to fully resolve all claims in the Action, including payments to Settlement Class members, Class Counsel's attorneys' fees and expenses, settlement administration costs, payment to the Labor & Workforce Development Agency ("LWDA") for its share of civil penalties under the PAGA, and the Class Representative enhancement payment.

The following deductions from the Gross Settlement Amount will be requested by the parties:

Attorneys' Fees and Expenses. Class Counsel have been prosecuting the Action on behalf of Settlement Class members on a contingency fee basis (that is, without being paid any money to date) and have been paying all litigation costs and expenses. The Court will determine the actual amount awarded to Class Counsel as attorneys'

fees, which will be paid from the Gross Settlement Amount. Settlement Class members are not personally responsible for any of Class Counsel's attorneys' fees or expenses. Class Counsel will ask for up to one-third of the Gross Settlement Amount, which is currently estimated at \$133,333.33, as reasonable compensation for the work Class Counsel performed and will continue to perform in this Action through Settlement finalization. Class Counsel also will ask for reimbursement of up to \$20,000.00 in verified costs incurred in connection with the Action.

Settlement Administration Costs. The Court has approved Phoenix Settlement Administrators to act as the "Settlement Administrator," who is sending this Notice to you and will perform many other duties relating to the Settlement. The Parties request setting aside up to ~~\$740,500~~\$20,000.00 from the Gross Settlement Amount to pay the settlement administration costs.

Class Representative Enhancement Payment. Class Counsel will ask the Court to award the Class Representative an enhancement payment in the amount of \$5,000.00 to compensate him for his service and extra work provided on behalf of the Settlement Class.

PAGA Payment to State of California. The parties have agreed to allocate \$20,000.00 towards the Settlement of the PAGA claims in the Action. \$15,000.00 will be paid to the State of California Labor & Workforce Development Agency, representing its 75% share of the civil penalties. The remaining \$5,000.00 will be allocated to Settlement Class members as described below.

Calculation of Individual Settlement Class Members' Settlement Awards. After deducting the Court-approved amounts above, the balance of the Gross Settlement Amount will form the Net Settlement Amount, which will be distributed to all Settlement Class members who do not submit a valid and timely Request for Exclusion from the Settlement. The Net Settlement Amount is estimated at approximately \$216,666.67, and will be divided as follows:

- (i) 85% of the Net Settlement Amount will be allocated to all participating Settlement Class members in proportion to the number of workweeks that he or she worked during the Class Period.
- (ii) 10% of the Net Settlement Amount shall be designated as the "Waiting Time Amount" and will be allocated in equal amounts to all participating Settlement Class members whose employment with Tropical Plaza ended at any time between January 9, 2017 through <<PRELIM APPROVAL DATE>>.
- (iii) 5% of the Net Settlement Amount shall be designated as the "Wage Statement Amount." Each participating Settlement Class member who was employed by Tropical Plaza at any time from January 9, 2019 to <<PRELIM APPROVAL DATE>> shall receive a portion of the Wage Statement Amount proportionate to the number of workweeks that he or she worked during the time period of January 9, 2019 to <<PRELIM APPROVAL DATE>>.
- (iv) \$5,000.00 of the Gross Settlement Amount has been designated as the "PAGA Amount." Each participating Settlement Class member who was employed by Tropical Plaza at any time from January 9, 2019 to <<PRELIM APPROVAL DATE>> shall receive a portion of the PAGA Amount proportionate to the number of workweeks that he or she worked during the time period of January 9, 2019 to <<PRELIM APPROVAL DATE>>.

Payments to Settlement Class members. If the Court grants final approval of the Settlement, individual Settlement Awards will be mailed to all Settlement Class members who did not submit a valid and timely Request for Exclusion from the Settlement. Settlement checks will be valid for 180 days. Any checks that were not cashed within 180 days will escheat to the California State Controller Unclaimed Property Fund in the name of the Settlement Class member.

Allocation and Taxes. For tax purposes, each Settlement Award shall be treated as follows: 20% as "wages," for which an IRS Form W-2 will be issued; and 80% as "penalties" and "interest" for which an IRS Form 1099 will be issued. Settlement Class members are responsible for the proper income tax treatment of the individual Settlement Awards. The Settlement Administrator, Tropical Plaza and its counsel, and Class Counsel cannot provide tax advice.

Accordingly, Settlement Class members should consult with their tax advisors concerning the tax consequences and treatment of payments they receive under the Settlement.

Release. If the Court approves the Settlement, Plaintiff and every member of the Settlement Class (except those who opt out) will fully release and discharge Tropical Plaza, and all of its present and former officers, directors, employees, shareholders, agents, trustees, representatives, attorneys, insurers, reinsurers, parent companies, subsidiaries, divisions, affiliates, predecessors, successors, as well as any individual or entity that could be jointly liable with Defendant (collectively the “Released Parties”), from all claims, causes of action, and legal theories alleged or which could have been alleged based on the facts in the operative First Amended Class and Representative Action Complaint (“FAC”), including: (a) failure to pay all overtime wages; (b) failure to pay all minimum wages; (c) failure to authorize and permit all rest periods in accordance with California law; (d) failure to provide all meal periods in accordance with California law; (e) failure to furnish accurate and itemized wage statements; (f) failure to pay all wages owed upon separation of employment; (g) all claims for unfair business practices that could have been premised on the facts, claims, causes of action or legal theories of relief pled in the FAC; (h) all claims for civil penalties under the PAGA that were or could have been alleged based on the claims, causes of action or legal theories described above or on any of the claims, causes of action, or legal theories of relief pled in the FAC; and (i) all damages, penalties, interest, costs (including attorney’s fees), and other amounts recoverable under said claims or causes of action as to the facts and/or legal theories alleged or which could have been alleged in the FAC (collectively, the “Released Claims”). The period of the Release shall extend to the limits of the Class Period.

Conditions of Settlement. The Settlement is conditioned upon the Court entering an order at or following the Final Approval Hearing finally approving the Settlement as fair, reasonable, adequate, and in the best interests of the Settlement Class, and the entry of a Judgment.

How can I claim money from the Settlement?

Do Nothing. If you do nothing, you will be entitled to your share of the Settlement based on the proportionate number of workweeks you worked during the Class Period, whether you have separated employment from Tropical Plaza between January 9, 2017 and <<PRELIM APPROVAL DATE>>, and the proportionate number of workweeks you worked between January 9, 2019 and <<PRELIM APPROVAL DATE>>, as stated in the accompanying Notice of Estimated Settlement Award. You also will be bound by the Settlement, including the release of claims stated above.

What other options do I have?

Dispute Information in Notice of Estimated Settlement Award. Your award is based on the proportionate number of workweeks you worked during the Class Period, whether you have separated employment from Tropical Plaza between January 9, 2017 and <<PRELIM APPROVAL DATE>>, and the proportionate number of workweeks you worked between January 9, 2019 and <<PRELIM APPROVAL DATE>>. The information contained in Tropical Plaza’s records regarding each of these factors, along with your estimated Settlement Award, is listed on the accompanying Notice of Estimated Settlement Award. If you disagree with the information in your Notice of Estimated Settlement Award, you may submit a dispute, along with any supporting documentation, in accordance with the procedures stated in the Notice of Estimated Settlement Award. Any disputes, along with supporting documentation, must be postmarked no later than <<RESPONSE DEADLINE>>. **DO NOT SEND ORIGINALS; DOCUMENTATION SENT TO THE SETTLEMENT ADMINISTRATOR WILL NOT BE RETURNED OR PRESERVED.**

The Parties and the Settlement Administrator will evaluate the evidence submitted and discuss in good faith how to resolve any disputes submitted by Settlement Class members. The Settlement Administrator shall make an initial determination regarding any disputes submitted by Settlement Class members, however, the Court shall have the right to review the Settlement Administrator’s initial determination and the Court shall make the final ~~The Settlement Administrator’s decision regarding any dispute will be final~~ submitted by Settlement Class members.

Exclude Yourself from the Settlement. If you **do not** wish to take part in the Settlement, you may exclude yourself by sending to the Settlement Administrator an executed Request for Exclusion Form no later than <<RESPONSE DEADLINE>>, with your name, address, telephone number, last four digits of your social security number, and your signature. A Request for Exclusion Form is included with this Notice.

Send the Request for Exclusion Form directly to the Settlement Administrator at <<INSERT ADMINISTRATOR CONTACT INFO>>. Any person who submits a timely Request for Exclusion Form shall, upon receipt by the Settlement Administrator, no longer be a Settlement Class member, shall be barred from participating in any portion of the Settlement, and shall receive no benefits from the Settlement. **Do not submit both a Dispute and a Request for Exclusion.** If you do, the Request for Exclusion will be invalid, you will be included in the Settlement Class, and you will be bound by the terms of the Settlement.

Objecting to the Settlement. You also have the right to object to the terms of the Settlement. However, if the Court rejects your objection, you will still be bound by the terms of the Settlement. If you wish to object to the Settlement, or any portion of it, you may mail a written objection to the Settlement Administrator at <<INSERT ADMINISTRATOR CONTACT INFO>>. All objections and correspondence must be sent directly to the Settlement Administrator, please do not send objections or correspondence to the Court. Any objections will be provided to the Court by Plaintiff in connection with the Final Approval Hearing. Your written objection should include your name, address, as well as contact information for any attorney representing you regarding your objection, and the case name and number, ~~each specific reason in support of your objection, and any legal or factual support for each objection together with any evidence in support of your objection.~~ Objections should be in writing and must be postmarked on or before <<RESPONSE DEADLINE>>. Notwithstanding the foregoing, you do not need to object in writing to be heard at the Final Approval Hearing.

You may also appear at the Final Approval Hearing scheduled for <<FINAL APPROVAL HEARING DATE/TIME>> September 30, 2021 at 2:00 p.m. in Department CX102 of the Orange County Superior Court, located at 751 West Santa Ana Boulevard, Santa Ana, California 92701. You have the right to appear either in person or through your own attorney at this hearing. All objections or other correspondence must state the name and number of the case, which is *Manuel Chavez v. Tropical Plaza Nursery, Inc.*, Orange County Superior Court Case No. 30-2020-01122820-CU-OE-CXC.

If you object to the Settlement, you will remain a member of the Settlement Class, and if the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as Settlement Class members who do not object.

What is the next step?

The Court will hold a Final Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement on <<FINAL APPROVAL HEARING DATE/TIME>> September 30, 2021 at 2:00 p.m. in Department CX102 of the Orange County Superior Court, located at 751 West Santa Ana Boulevard, Santa Ana, California 92701. The Court will also be asked to rule on Class Counsel's request for attorneys' fees and reimbursement of documented costs and expenses, and the Class Representative enhancement payment. The Final Approval Hearing may be postponed without further notice to Settlement Class members. **You are not required to attend the Final Approval Hearing, although any Settlement Class member is welcome to attend the hearing.**

If the Court grants Final Approval, the Court will issue a final judgment which shall be posted on the Settlement Administrator's website (<http://www.phoenixclassaction.com>).

How can I get additional information?

This Notice is only a summary of the Action and the Settlement. For more information, you may inspect the Court's files and the Settlement Agreement at the Office of the Clerk of the Orange County Superior Court, located at 751 West Santa Ana Boulevard, Santa Ana, California 92701, during regular court hours. You may also visit the Orange County Superior Court website at www.occourts.org to inspect the Court's files by going to the "Online Case Access" tab, selecting "Civil Case & Document Access," and entering the case number information. You may also contact Class Counsel using the contact information listed above for more information.

PLEASE DO NOT CALL OR WRITE TO THE COURT, TROPICAL PLAZA, OR ITS ATTORNEYS FOR INFORMATION ABOUT THIS SETTLEMENT OR THE SETTLEMENT PROCESS

REMINDER AS TO TIME LIMITS

The deadline for submitting any Disputes, Requests for Exclusion, or Objections is <<**RESPONSE DEADLINE**>>. These deadlines will be strictly enforced.

EXHIBIT 5

NOTICE OF ESTIMATED SETTLEMENT AWARD

MANUEL CHAVEZ V. TROPICAL PLAZA NURSERY, INC.
ORANGE COUNTY SUPERIOR COURT CASE NO. 30-2020-01122820-CU-OE-CXC

Please complete and return this Form to **<<ADMINISTRATOR CONTACT INFO>>** **ONLY IF** (1) your personal contact information has changed, and/or (2) you wish to dispute any of the items listed in Section (III), below. It is your responsibility to keep a current address on file with the Settlement Administrator.

(I) Please type or print your name:

(First, Middle, Last)

(II) Please type or print the following identifying information if your contact information has changed:

Former Names (if any)

New Street Address

City

State

Zip Code

(III) Information Used to Calculate Your Settlement Award:

According to Tropical Plaza Nursery, Inc.'s ("Tropical Plaza") records:

- (a) you worked for Tropical Plaza in California from _____ to _____;
- (b) you worked _____ Workweeks between January 9, 2016, and **<<PRELIM APPROVAL DATE>>**, for Tropical Plaza;
- (c) you worked _____ Workweeks between January 9, 2019 and **<<PRELIM APPROVAL DATE>>**, for Tropical Plaza; and
- (d) your employment with Tropical Plaza **<<DID/DID NOT>>** end between January 9, 2017 and **<<PRELIM APPROVAL DATE>>**.

Based on the above, your Settlement Award is estimated at \$ _____.

(IV) If you disagree with items (a), (b), (c), and/or (d) in Section (III) above, please explain why in the space provided below and include copies of any supporting evidence or documentation with this Form:

If you dispute the above information from Tropical Plaza's records, ~~Tropical Plaza's records will control unless you are able to please~~ provide documentation that establishes ~~otherwise and~~ that Tropical Plaza's records are mistaken. If there is a dispute about whether Tropical Plaza's information or yours is accurate, ~~and the dispute cannot be resolved informally,~~ the dispute will be ~~resolved by~~ submitted to the Parties and the Settlement Administrator as described in the "Notice of Pendency of Class Action and Proposed Settlement" that accompanies this Form. The Court shall have the right to review the Settlement Administrator's initial determination and will make a final determination regarding any disputes submitted by Settlement Class members.

**ANY DISPUTES, ALONG WITH ANY SUPPORTING DOCUMENTATION, MUST BE POSTMARKED
NO LATER THAN <<RESPONSE DEADLINE>>.**

EXHIBIT 6

HAINES LAW GROUP
EMPLOYMENT ATTORNEYS

January 13, 2020

VIA LWDA WEBSITE

Labor and Workforce Development Agency
Attn. PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612

Re: *Manuel Chavez v. Tropical Plaza Nursery, Inc.*

To Whom It May Concern:

Please be advised that this law firm represents Manuel Chavez (“Mr. Chavez”) in claims arising from his employment with Tropical Plaza Nursery, Inc.; and Does 1 through 100 (collectively “Tropical Plaza”). Mr. Chavez is an “aggrieved employee” as defined by Labor Code Section 2698 *et seq.*, due to Tropical Plaza’s numerous violations of the Labor Code as set forth below. The purpose of this letter is to comply with Labor Code Sections 2699.3, which requires aggrieved employees to notify their employer and the Labor & Workforce Development Agency (“LWDA”) of the specific provisions of the Labor Code allegedly violated. For purposes of this letter, “aggrieved employees” includes all of Tropical Plaza’s non-exempt employees who worked for Tropical Plaza in California during the one year immediately preceding the date of this letter through the present.

Tropical Plaza is in the business of providing various irrigation, landscape, and hardscape services. Mr. Chavez worked for Tropical Plaza from approximately September 2017 to October 2019 in the position of Landscaper. As a Landscaper, Mr. Chavez’s primary job duties consisted of providing landscaping services for various projects including, but not limited to, commercial businesses and private residences.

During Mr. Chavez’s and other aggrieved employees’ employment with Tropical Plaza, Mr. Chavez and other aggrieved employees worked in excess of eight (8) hours per workday and/or in excess of forty (40) hours per workweek, but did not receive overtime compensation at one and one-half times their regular rate of pay for working overtime hours. Specifically, Mr. Chavez and other aggrieved employees received non-discretionary incentive pay, including bonuses and/or other forms of pay that are not excludable from an employee’s “regular rate” of pay (hereinafter the aforementioned forms of pay are collectively referred to as “Incentive Pay”). Despite Tropical Plaza’s payment of Incentive Pay to Mr. Chavez and other aggrieved employees, Tropical Plaza failed to properly calculate Mr. Chavez’s and other aggrieved employees’ “regular rates” of pay, thereby causing Mr. Chavez and other aggrieved employees to be underpaid for their required overtime wages.

During Mr. Chavez's and other aggrieved employees' employment with Tropical Plaza, Tropical Plaza utilized a timekeeping system which resulted in Mr. Chavez and other aggrieved employees not being compensated for all hours actually worked, whether by rounding, time-shaving, or otherwise. Specifically, Mr. Chavez and other aggrieved employees clocked in and out for their shifts by inserting a timecard into a timeclock; however, Tropical Plaza only paid Mr. Chavez and other aggrieved employees in increments of a half hour, so that over a period of time they were deprived of all earned minimum wages. Further, on occasions when Mr. Chavez and other aggrieved employees worked over eight (8) hours in a workday and/or forty (40) hours in a workweek, Tropical Plaza's timekeeping policies/practices deprived them of all overtime wages earned. Due to Tropical Plaza's timekeeping policies/practices that failed to compensate for all hours worked, Mr. Chavez and other aggrieved employees were not compensated for all required minimum and overtime wages.

During Mr. Chavez's and other aggrieved employees' employment with Tropical Plaza, Tropical Plaza's policy and/or practice was to compensate its employees for only their scheduled hours, as opposed to the hours they actually worked, which were regularly greater than their scheduled hours due to Tropical Plaza knowing and permitting, and in some cases requiring, work to be performed by these employees outside of their scheduled hours without compensation. For example, during Mr. Chavez's employment with Tropical Plaza, Mr. Chavez would often arrive at Tropical Plaza's yard in Orange, California up to 1.5 hours before the start of his scheduled shift in order to, among other things, prepare and load the truck, without being compensated for this time. As a result of these policies and/or practices, Mr. Chavez and other aggrieved employees were not compensated for all required minimum and overtime wages.

Tropical Plaza's timekeeping policies/practices were also unlawful because Tropical Plaza failed to record Mr. Chavez's and other aggrieved employees' meal periods in their time records, in violation of Wage Order 16, Section 6(A)(1).

Mr. Chavez and other aggrieved employees were not authorized and permitted to take all required and legally-compliant rest periods due to Tropical Plaza's rest period policies/practices. Specifically, Mr. Chavez and other aggrieved employees were not always authorized and permitted to take all legally compliant rest periods of at least a net ten minutes due to the nature of their work. Specifically, Mr. Chavez and other aggrieved employees were often required to perform work at various jobsites during a workday in a back-to-back fashion, and as a result had to work periods greater than 4 hours without a paid break of at least a net 10 minutes. On those occasions when Mr. Chavez and other aggrieved employees were not provided with all legally-required and compliant rest periods to which they were entitled, Tropical Plaza failed to compensate Mr. Chavez and other aggrieved employees with the required rest period premium for each workday in which they experienced a rest period violation as mandated by Labor Code § 226.7. Upon information and belief, during at least a portion of the putative class period, Tropical Plaza maintained no payroll code for paying rest period premiums under Labor Code § 226.7.

Tropical Plaza failed to provide Mr. Chavez and other aggrieved employees with all legally compliant meal periods because Tropical Plaza failed to provide Mr. Chavez and other aggrieved employees with a timely, duty-free, and uninterrupted 30-minute meal period commencing before the end of the fifth hour of work. Specifically, upon information and belief, Mr. Chavez's and other aggrieved employees' meal periods were frequently "late" (i.e., starting after the completion of the fifth hour of work), because Tropical Plaza's work demands frequently prevented them from taking a meal period until well after the completion of the fifth hour of work. Tropical Plaza failed to compensate Mr. Chavez and other aggrieved employees with the required meal period premium for each workday in which they experienced a meal period violation as mandated by Labor Code § 226.7. Upon information and belief, during at least a portion of the liability period, Tropical Plaza maintained no payroll code for paying meal period premiums under Labor Code § 226.7.

As a result of Tropical Plaza's failure to pay all overtime and minimum wages, and meal and rest period premium wages, Tropical Plaza maintained inaccurate payroll records and issued inaccurate wage statements to Mr. Chavez and other aggrieved employees.

Because of the above violations, Tropical Plaza also failed to timely pay Mr. Chavez and other aggrieved employees all wages owed at the time of their respective separations from employment.

As described above, Tropical Plaza committed the following violations of the Labor Code, and Industrial Welfare Commission Wage Order 16 ("Wage Order 16"):

Overtime Wage Violations

Tropical Plaza was required to pay Mr. Chavez and other aggrieved employees overtime wages for all hours worked in excess of eight hours per workday and/or forty hours per workweek. *See* Labor Code §§ 1194(a) and 1198; Wage Order 16, § 3. According to Labor Code § 510(a), "Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee." This Section further provides, "Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee." As alleged above, Tropical Plaza caused Mr. Chavez and other aggrieved employees to work overtime hours, but did not compensate Mr. Chavez and other aggrieved employees at one and one-half times their regular rate of pay for such hours.

Minimum Wage Violations

Tropical Plaza was required to pay Mr. Chavez and other aggrieved employees an hourly rate at least equal to the minimum wage for each hour actually worked. *See* Labor Code §§ 1182.12, 1194; 1194.2, 1197; Wage Order 16, § 4. As alleged above, Tropical Plaza failed to conform its pay practices to the requirements of the law by failing to pay Mr. Chavez and other aggrieved employees for all hours worked, including, but not limited to, all hours they were subject to the control of Tropical Plaza and/or suffered or permitted to work under the California Labor Code and Wage Order 16.

Rest Period Violations

As alleged above, Tropical Plaza failed to authorize and permit Mr. Chavez and other aggrieved employees to take all required and legally-compliant rest periods, and failed to pay rest period premium wages when rest periods were not authorized and permitted. *See* Labor Code §§ 226.7 and 516; Wage Order 16, § 11. As a result, Mr. Chavez and other aggrieved employees are owed an additional hour of wages at their regular rate of compensation for each workday that they were not authorized and permitted to take all legally required rest periods. *See* Labor Code § 226.7 (“If an employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee’s regular rate of compensation for each workday that the meal or rest period is not provided.”)

Meal Period Violations

As alleged above, Tropical Plaza failed in its affirmative obligation to provide all of its other aggrieved employees in California, including Mr. Chavez and other aggrieved employees, with all legally-compliant meal periods in accordance with the mandates of the California Labor Code and Wage Order 16, § 10. As a result, Mr. Chavez and other aggrieved employees are owed an additional hour of wages at their regular rate of compensation for each workday they experienced a meal period violation. *See* Labor Code § 226.7 (“If an employer fails to provide an employee a meal or rest or recovery period in accordance with ... [an] order of the Industrial Welfare Commission ... the employer shall pay the employee one additional hour of pay at the employee’s regular rate of compensation for each workday that the meal or rest or recovery period is not provided.”).

Wage Statement Violations

Tropical Plaza was required to furnish Mr. Chavez and other aggrieved employees with complete and accurate itemized wage statements that showed, among other things, their rates of pay, corresponding number of hours worked at each rate of pay, total gross wages earned, total net wages earned. *See* Labor Code §§ 226(a). As a result of Tropical Plaza’s failure to pay all overtime, minimum, double-time wages, and meal and rest period premium wages, Tropical Plaza maintained inaccurate payroll records and issued

inaccurate wage statements to Mr. Chavez and other aggrieved employees in violation of Labor Code § 226. Tropical Plaza's failure to comply with its wage statement obligations was knowing and intentional, and Mr. Chavez and other aggrieved employees have suffered injury as a result.

Waiting Time Penalties

Labor Code §§ 201 and 202 require that employees receive all of their final wages at the time of their separation of employment. Tropical Plaza failed to timely pay Mr. Chavez and other aggrieved employees all of their final wages at the time of separation, which included all overtime, double-time, and minimum wages as well as all meal and rest period premium wages. Pursuant to Labor Code § 203, Tropical Plaza's failure to pay all final wages due to Mr. Chavez and other aggrieved employees was willful and, consequently, entitles Mr. Chavez and other aggrieved employees to waiting time penalties equal to one day of wages at their standard hourly rate for each day Tropical Plaza failed to pay their final wages after their separation, up to a maximum of thirty days.

As an "aggrieved employee," Mr. Chavez will initiate a civil action on behalf of himself and other aggrieved employees to recover damages, statutory penalties, and civil penalties resulting from the wage and hour violations alleged herein. Based on Mr. Chavez's own investigation, and on information and belief, Tropical Plaza committed and continues to commit the following Labor Code violations:

- a. Tropical Plaza violated Labor Code §§ 204, 510, 558, 1194, and 1198 by failing to pay Mr. Chavez and other aggrieved employees all overtime compensation earned;
- b. Tropical Plaza violated Labor Code §§ 1182.12, 1194, 1194.2, 1197, and 1198 by failing to pay Mr. Chavez and other aggrieved employees the statutory minimum wage for all hours worked;
- c. Tropical Plaza violated Labor Code §§ 226.7, 516, and 558 by failing to authorize and permit Mr. Chavez and other aggrieved employees all required rest periods and failing to pay rest period premiums to Mr. Chavez and other aggrieved employees at these employees' respective regular rates of compensation for rest period violations;
- d. Tropical Plaza violated Labor Code §§ 226.7, 512, and 558 by failing to provide meal periods as required by law and failing to pay meal period premiums to Mr. Chavez and other aggrieved employees at these employees' respective regular rates of compensation for meal period violations;
- e. Tropical Plaza violated Labor Code § 226 by failing to furnish Mr. Chavez and other aggrieved employees with accurate and compliant itemized wage statements;

- f. Tropical Plaza violated Labor Code §§ 201, 202, and 203 by failing to timely pay all final wages due to Mr. Chavez and other aggrieved employees;
- g. Tropical Plaza violated Labor Code § 204 by failing to pay Mr. Chavez and other aggrieved employees all wages earned at least twice during each calendar month; and
- h. Tropical Plaza violated Labor Code §§ 558 and 1174 by failing to maintain accurate records on behalf of Mr. Chavez and other aggrieved employees.

Pursuant to Labor Code Section § 2699.3(a)(2)(A), please notify us and Tropical Plaza if the LWDA intends to investigate these alleged violations of the Labor Code. Please contact me should you require additional information.

Very truly yours,
HAINES LAW GROUP, APC



Paul K. Haines

cc: Tropical Plaza Nursery, Inc. (via certified mail)

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Extra Services & Fees (check box, add fee as appropriate)	
☐ Return Receipt (hardcopy)	\$
☐ Return Receipt (electronic)	\$
☐ Certified Mail Restricted Delivery	\$
☐ Adult Signature Required	\$
☐ Adult Signature Restricted Delivery	\$



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Tropical Plaza Nursery, Inc.
 c/o Jonathan Barry Sexton
 Business Law Center, APC
 640 N. Tustin Ave., Suite 100
 Santa Ana, CA 92705 (Attn AC)

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Tropical Plaza Nursery, Inc.
 c/o Jonathan Barry Sexton
 Business Law Center, APC
 640 N. Tustin Ave., Suite 100
 Santa Ana, CA 92705



9590 9402 4736 8344 2240 25

2. Article Number (Transfer from service label)

7019 2280 0002 0357 2781

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

- ☐ Agent
- ☐ Addressee

B. Received by (Printed Name)

PARI POURTEYMAR

C. Date of Delivery

1/15/20

- D. Is delivery address different from item 1?** ☐ Yes
 If YES, enter delivery address below: ☐ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail
- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Return Receipt for Merchandise
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

Mail Restricted Delivery
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PS Form 3811, July 2015 PSN 7530-02-000-9053

Domestic Return Receipt

From: noreply@salesforce.com on behalf of [LWDA DO NOT REPLY](#)
To: [Aaron Clark](#)
Subject: Thank you for submission of your PAGA Case.
Date: Monday, January 13, 2020 4:42:53 PM

1/13/2020

LWDA Case No. LWDA-CM-766623-20
Law Firm : Haines Law Group, APC
Plaintiff Name : Manuel Chavez
Employer: Tropical Plaza Nursery, Inc.

Item submitted: Initial PAGA Notice

Thank you for your submission to the Labor and Workforce Development Agency. Please make a note of the LWDA Case No. above as you may need this number for future reference when filing any subsequent documents for this Case.

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm

EXHIBIT 7

INTERPRETER/TRANSLATOR DECLARATION AND CERTIFICATION

I, Diana V. Valori, declare that I am
(Name of Interpreter/Translator)

- ☐ A CERTIFIED/REGISTERED COURT INTERPRETER
- ☒ AN ACCREDITED TRANSLATOR REGISTERED WITH THE AMERICAN TRANSLATORS ASSOCIATION AND CERTIFIED TO TRANSLATE BOTH FROM ENGLISH INTO SPANISH AND FROM SPANISH INTO ENGLISH

My certification/registration number is: 476718

I further declare that I have translated the attached document from the English language to the Spanish language. I declare, to the best of my abilities and belief, that this is a true and accurate translation of the English language text of the following document: Notice of Pendency of Class Action and Proposed Settlement.

Specific Description of the Document(s)

1. Six (6) Notice of Pendency of Class Action and Proposed Settlement for Manuel Chavez v. Tropical Plaza Nursery, Inc., case number 30-2020-01122820-CU-OE-CXC

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

04-29-2020
Date



Diana V. Valori

(Printed name of Certified/Registered Court Interpreter or Accredited Translator registered with the American Translators Association)

(Signature of Certified/Registered Court Interpreter of Accredited Translator with the American Translators Association)

TRIBUNAL SUPERIOR DEL ESTADO DE CALIFORNIA

CONDADO DE ORANGE

MANUEL CHAVEZ, como individuo y en nombre de
todos aquellos en sus mismas condiciones,

Demandante,
contra

TROPICAL PLAZA NURSERY, INC., una
Corporación de California; e individuos desconocidos
del 1 al 100,

Demandados.

Caso No. 30-2020-01122820-CU-OE-CXC

**NOTIFICACIÓN DE PENDENCIA Y
CONCILIACIÓN PROPUESTA DE DEMANDA
COLECTIVA**

Para: Todos los empleados no exentos actuales y anteriores que son o fueron empleados por Tropical Plaza Nursery, Inc. en el puesto de trabajador de campo en el Estado de California entre el 9 de enero del 2016 y <<FECHA DE APROBACIÓN PRELIMINAR>> ("Período de la Demanda Colectiva").

**POR FAVOR, LEA DETENIDAMENTE.
SUS DERECHOS LEGALES PODRÁN VERSE AFECTADOS YA SEA QUE ACTÚE O NO.
EL PRESENTE AVISO SE PROPORCIONA TANTO EN INGLÉS COMO EN ESPAÑOL.**

¿Por qué debería leer este aviso?

El tribunal ha concedido la aprobación preliminar de una conciliación propuesta (la "Conciliación") en la causa de *Manuel Chavez contra Tropical Plaza Nursery, Inc.*, caso del Tribunal Superior del Condado de Orange No. 30-2020-01122820-CU-OE-CXC (la "Acción"). Es crucial que lea cuidadosamente este aviso, dado que sus derechos pueden verse afectados por la Conciliación.

Es posible que usted tenga derecho a recibir una compensación monetaria de esta Conciliación. Los registros de Tropical Plaza Nursery, Inc. ("Tropical Plaza") indican que usted trabajó en Tropical Plaza como empleado no exento en el puesto de trabajador de campo en California entre el 9 de enero del 2016 y la <<FECHA DE APROBACIÓN PRELIMINAR>> (el "Período de la Demanda Colectiva"). El tribunal ha ordenado que se le envíe este aviso porque usted podría tener derecho a recibir una compensación monetaria conforme a esta Conciliación y porque la Conciliación afecta a sus derechos legales.

El propósito de este aviso es proporcionarle una breve descripción de la Acción, informarle de los términos de la Conciliación, describir sus derechos en relación con esta, y explicarle los pasos que puede dar para participar, oponerse o excluirse de la Conciliación. Si no se excluye de la Conciliación y el tribunal decide finalmente aprobarla, usted estará obligado a cumplir con sus términos y cualquier sentencia definitiva.

¿Sobre qué trata este caso?

El Demandante Manuel Chávez ("Demandante") interpuso esta Acción contra Tropical Plaza en calidad de acción colectiva y representativa en nombre de un grupo de empleados no exentos en el puesto de trabajador de campo dentro del Estado de California que están o estuvieron empleados por Tropical Plaza desde el 9 de enero del 2016, hasta <<FECHA DE APROBACIÓN PRELIMINAR>>. El Demandante es conocido como el "Representante de la Demanda Colectiva", y sus abogados, que también representan los intereses de todos los miembros de la Conciliación de la Demanda Colectiva, son conocidos como los "Abogados de la Demanda Colectiva".

El Demandante alega que Tropical Plaza no pagó salarios mínimos y las horas extras correspondientes a los miembros de la Conciliación de la Demanda Colectiva; no proporcionó todos los horarios para comer de acuerdo con la ley de California; no autorizó ni permitió los periodos de descanso de acuerdo con la ley de California; no pagó

oportunamente todos los salarios adeudados al momento del cese del empleo; y no proporcionó estados de cuenta salariales precisos y detallados a los miembros de la Conciliación de la Demanda Colectiva. Como resultado de las presuntas infracciones anteriores, el Demandante sostiene que Tropical Plaza incurrió en prácticas comerciales desleales y está sujeto a sanciones civiles en virtud de la Ley del Procurador General Privado del Código Laboral ("PAGA").

Tropical Plaza refuta las reclamaciones del Demandante y niega haber incumplido ley alguna o cometido actos indebidos. Tropical Plaza también niega deber salarios, restituciones, sanciones, daños y perjuicios u otros montos a los miembros de la Conciliación de la Demanda Colectiva. Por consiguiente, la Conciliación constituye una conciliación de las reclamaciones en disputa y no debe interpretarse como un reconocimiento de responsabilidad por parte de Tropical Plaza, quien niega expresamente toda responsabilidad.

El tribunal no ha emitido su decisión sobre los méritos de las reclamaciones del Demandante. No obstante, con el fin de evitar gastos adicionales, inconvenientes e interferencias en sus operaciones comerciales, Tropical Plaza ha acordado conciliar la Acción de conformidad con los términos resumidos en este Aviso. Después de que los Abogados la Demanda Colectiva examinaron la información pertinente, se llegó a la Conciliación después de una mediación y negociaciones en igualdad de condiciones entre las partes.

El Representante y los Abogados de la Demanda Colectiva están a favor de la Conciliación. Entre las razones para apoyar dicha Conciliación se encuentran las defensas de responsabilidad potencialmente disponibles para Tropical Plaza, el riesgo de denegación de la certificación de la demanda colectiva, los riesgos inherentes a un juicio sobre los méritos de la causa, y los retrasos e incertidumbres asociados con un litigio en curso.

Si usted sigue siendo empleado de Tropical Plaza, su decisión de participar o no en la Conciliación no afectará su empleo. La ley de California y la política de Tropical Plaza prohíben estrictamente las represalias ilegales. Tropical Plaza no tomará ninguna medida laboral adversa ni tomará represalias o discriminará a ningún miembro de la Conciliación de la Demanda Colectiva debido a su decisión de participar o no en la Conciliación.

¿Quiénes son los abogados?

Abogados del Demandante/Conciliación de la Demanda Colectiva HAINES LAW GROUP, APC Paul K. Haines phaines@haineslawgroup.com Sean M. Blakely sblakely@haineslawgroup.com 2155 Campus Drive, Suite 180 El Segundo, California 90245 Teléfono: (424) 292-2350 Fax: (424) 292-2355 haineslawgroup.com	Abogados de Tropical Plaza: Walraven & Westerfeld, LLP Brian A. Selvan bselvan@walravenlaw.com 20 Enterprise, Suite 310 Aliso Viejo, California 92656 Teléfono: (949) 215-1990 Fax: (949) 215-1999 www.walravenlaw.com
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¿Cuáles son los términos de la Conciliación?

El <<FECHA DE APROBACIÓN PRELIMINAR>>, el tribunal certificó preliminarmente una acción legal colectiva, solo para los fines de la conciliación, de todos los empleados no exentos actuales y anteriores que están o estuvieron empleados por Tropical Plaza en el puesto de trabajador de campo en el Estado de California desde el 9 de enero del 2016 hasta <<FECHA DE APROBACIÓN PRELIMINAR>>. Los miembros de la Conciliación de la Demanda Colectiva que no opten por no participar en la misma, de conformidad con los procedimientos establecidos en este Aviso, quedarán obligados a cumplir la Conciliación y liberarán sus reclamaciones contra Tropical Plaza como se describe a continuación.

Tropical Plaza ha acordado pagar \$400,000.00 (el "Importe Bruto de la Conciliación") para resolver todas las reclamaciones en la Acción, incluyendo los pagos a los miembros de la Conciliación de la Demanda Colectiva, los honorarios y gastos de los Abogados de la Demanda Colectiva, los costos de administración de la conciliación, el pago a la Agencia de Desarrollo Laboral y de la Fuerza de Trabajo ("LWDA") por su parte de las sanciones civiles bajo la ley PAGA, y el pago incrementado del Representante de la Demanda Colectiva.

Las partes solicitarán las siguientes deducciones del Importe Bruto de la Conciliación:

Honorarios y gastos de abogados. Los Abogados de la Demanda Colectiva han estado procesando la Acción en nombre de los Miembros de la Conciliación de la Demanda Colectiva en virtud de un acuerdo de cuota litis (es decir, sin recibir ningún dinero hasta la fecha) y han estado pagando todos los costos y gastos del litigio. El tribunal determinará la cantidad real concedida a los Abogados de la Demanda Colectiva en concepto de honorarios, los cuales se pagarán con el Importe Bruto de la Conciliación. Los Miembros de la Conciliación de la Demanda Colectiva no son personalmente responsables de ninguno de los honorarios o gastos de los Abogados de la Demanda Colectiva. Los Abogados de la Demanda Colectiva solicitarán hasta un tercio del Importe Bruto de la Conciliación, que actualmente asciende aproximadamente a \$133,333.33, como compensación razonable por el trabajo llevado a cabo y que continuarán llevando a cabo en esta Acción hasta la conclusión de la Conciliación. Los Abogados de la Demanda Colectiva solicitarán además el reembolso de hasta \$20,000.00 por los costos verificados incurridos en relación con la Acción.

Gastos Administrativos de la Conciliación. El Tribunal autorizó a Phoenix Settlement Administrators para que actúe como "Administrador de la Conciliación", quién le ha enviado este Aviso y llevará a cabo muchos otros deberes relacionados con la Conciliación. Las Partes solicitan que se reserven hasta \$7,500.00 del Importe Bruto de la Conciliación para pagar los costos administrativos de la misma.

Pago Incrementado del Representante de la Demanda Colectiva. Los Abogados de la Demanda Colectiva solicitarán al tribunal que conceda un pago incrementado de \$5,000.00 al Representante de la Demanda Colectiva como compensación por sus servicios y el esfuerzo adicional proporcionado a favor de la Demanda Colectiva.

Pago PAGA al Estado de California. Las partes han acordado asignar \$20,000.00 como compensación por las reclamaciones PAGA en la Acción. Se abonarán \$15,000.00 a la Agencia de Desarrollo Laboral y de la Fuerza de Trabajo del Estado de California, lo que representa su parte del 75% de las sanciones civiles. Los \$5,000.00 restantes serán asignados a los miembros de la Conciliación de la Demanda Colectiva según se describe a continuación:

Cálculo de los pagos conforme a la Conciliación de los miembros de la Conciliación de la Demanda Colectiva. Después de descontar las cantidades mencionadas aprobadas por el tribunal, el saldo del Importe Bruto de la Conciliación representará el Importe Neto de la Conciliación, el cual será distribuido a todos los miembros de la Conciliación de la Demanda Colectiva que no hayan presentado una solicitud de exclusión de la Conciliación válida y puntual. Se estima que el Importe Neto de la Conciliación asciende aproximadamente a \$216,666.67 y será dividido de la siguiente manera:

- (i) El 85% del Importe Neto de la Conciliación se asignará a todos los miembros de la Conciliación de la Demanda Colectiva que participen en ella según la cantidad de semanas de trabajo que hayan trabajado durante el Periodo de la Demanda Colectiva.
- (ii) El 10% del Importe Neto de la Conciliación se designará como el "Monto del tiempo de espera" y se asignará en cantidades iguales a todos los miembros participantes de la Demanda Colectiva cuyo empleo con Tropical Plaza haya terminado en cualquier momento entre el 9 de enero de 2017 hasta <<FECHA DE APROBACIÓN PRELIMINAR>>.
- (iii) El 5% del Importe Neto de la Conciliación será designado como el "Monto de la Declaración de Salarios". Cada miembro de la Conciliación de la Demanda Colectiva que haya estado empleado por Tropical Plaza en cualquier momento desde el 9 de enero del 2019 hasta <<FECHA DE APROBACIÓN PRELIMINAR>> recibirá una parte del Monto de Declaración de Salarios según

la cantidad de semanas de trabajo trabajadas entre el 9 de enero del 2019 y <<FECHA DE APROBACIÓN PRELIMINAR>>.

- (iv) Se han designado \$5,000.00 del Importe Bruto de la Conciliación como el "Monto PAGA". Cada Miembro de la Conciliación de la Demanda Colectiva que haya estado empleado por Tropical Plaza en cualquier momento desde el 9 de enero del 2019 hasta <<FECHA DE APROBACIÓN PRELIMINAR>> recibirá una parte del Monto PAGA según la cantidad de semanas de trabajo trabajadas durante el período de tiempo del 9 de enero del 2019 hasta <<FECHA DE APROBACIÓN PRELIMINAR>>.

Pagos a los Miembros de la Conciliación de la Demanda Colectiva. Si el tribunal concede la aprobación final de la Conciliación, los pagos individuales en virtud de tal Conciliación se enviarán por correo a todos los miembros de la Conciliación de la Demanda Colectiva que no hayan presentado una solicitud de exclusión de la Conciliación válida y puntual. Los cheques de pago serán válidos durante 180 días, y aquellos que no sean cobrados durante este plazo se transferirán al Fondo de Propiedad No Reclamada del Contralor del Estado de California a nombre del miembro de la Demanda Colectiva.

Asignación e impuestos. A efectos fiscales, cada pago de la Conciliación se tratará de la siguiente manera: el 20% se considerará "salarios", para lo cual se emitirá un formulario W-2 del Servicio de Impuestos Internos (IRS); y el 80% se considerará "sanciones" e "intereses" para lo cual se emitirá un formulario 1099 del IRS. Los miembros de la Conciliación de la Demanda Colectiva son responsables del tratamiento adecuado del impuesto sobre la renta de los pagos individuales de esta. El Administrador de la Conciliación, Tropical Plaza y sus abogados, y los Abogados de la Demanda Colectiva no pueden proporcionar asesoramiento fiscal. En consecuencia, los miembros de la Conciliación de la Demanda Colectiva deben consultar con sus asesores sobre las consecuencias fiscales y el tratamiento de los pagos que reciban en virtud de la misma.

Liberación. Si el Tribunal aprueba la Conciliación, el Demandante y todos los miembros de la misma Demanda Colectiva (excepto aquellos que opten por no participar) liberarán y eximirán plenamente a Tropical Plaza, y a todos sus funcionarios, directores, empleados, accionistas, agentes, fideicomisarios, representantes, abogados, aseguradores, reaseguradores, empresas matrices, subsidiarias, divisiones, filiales, predecesores, sucesores presentes y anteriores así como a cualquier individuo o entidad que pudiera ser responsable conjuntamente con el Demandado (colectivamente las "Partes Exoneradas"), de todas las reclamaciones, causas de acción y teorías legales invocadas o que podrían haber sido alegadas sobre la base de los hechos en la Primera Demanda de Acción Colectiva y Representativa Enmendada ("FAC"), incluyendo (a) la falta de pago de todos los salarios por horas extras; (b) falta de pago de todos los salarios mínimos; (c) falta de autorización y permiso de todos los periodos de descanso de acuerdo con la ley de California; (d) falta de provisión de todos los periodos de comida de acuerdo con la ley de California; (e) falta de provisión de declaraciones salariales precisas y detalladas; (f) falta de pago de todos los salarios adeudados al momento de la separación del empleo; (g) todas las reclamaciones por prácticas comerciales desleales que podrían haberse basado en hechos, reclamaciones, causas de acción o teorías legales de reparación alegadas en el FAC; (h) todas las reclamaciones por sanciones civiles en virtud de la PAGA que fueron o podrían haber sido alegadas sobre la base de las reclamaciones, causas de acción o teorías legales descritas anteriormente o sobre cualquiera de las reclamaciones, causas de acción o teorías legales de reparación alegadas en el FAC; y (i) todos los daños y perjuicios, sanciones, intereses, costos (incluidos los honorarios de los abogados) y otras cantidades recuperables en virtud de dichas reclamaciones o causas de acción en cuanto a los hechos y/o teorías legales invocadas o que podrían haber sido alegadas en el FAC (colectivamente, las "Reclamaciones Liberadas"). El período de la Liberación se extenderá hasta los límites del Período de la Demanda Colectiva.

Condiciones de la Conciliación. La Conciliación está condicionada a que el tribunal emita una orden en la Audiencia de Aprobación Definitiva o después de ella, en la que se apruebe concluyentemente la Conciliación como justa, razonable, adecuada y acorde con los intereses de los miembros de la Demanda Colectiva, y a que se dicte una sentencia.

¿Cómo puedo reclamar mi compensación de la Conciliación?

No haga nada. Si no hace nada, tendrá derecho a su parte de la Conciliación según la cantidad de semanas de trabajo que haya trabajado durante el Período de la Demanda Colectiva, ya sea que haya concluido su empleo con Tropical

Plaza entre el 9 de enero del 2017 y <<FECHA DE APROBACIÓN PRELIMINAR>> y la cantidad de semanas de trabajo trabajadas entre el 9 de enero del 2019 y <<FECHA DE APROBACIÓN PRELIMINAR>>, tal y como se indica en el Aviso de pago de conciliación estimado adjunto. Además, usted se compromete con las cláusulas de la Conciliación, incluyendo la liberación de reclamaciones indicada anteriormente.

¿Qué otras opciones tengo?

Disputar la información en el Aviso de pago de conciliación estimado. Su pago se basa en la cantidad de semanas de trabajo trabajadas durante el Período de la Demanda Colectiva, si concluyó su empleo con Tropical Plaza entre el 9 de enero del 2017 y <<FECHA DE APROBACIÓN PRELIMINAR>> y la cantidad de semanas de trabajo trabajadas entre el 9 de enero del 2019 y <<FECHA DE APROBACIÓN PRELIMINAR>>. La información contenida en los registros de Tropical Plaza con respecto a cada uno de estos factores, junto con su pago de conciliación estimado, se indican en el Aviso de pago de conciliación estimado adjunto a la presente. Si no está de conforme con la información contenida en su Aviso de pago de conciliación estimado, puede presentar una disputa, junto con cualquier documentación de respaldo, acorde con los procedimientos establecidos en el Aviso de pago de conciliación estimado. Cualquier disputa, al igual que la documentación de apoyo, debe ser matasellada a más tardar el <<TIEMPO DE RESPUESTA>>. **NO ENVÍE LOS DOCUMENTOS ORIGINALES; TODA DOCUMENTACIÓN ENVIADA AL ADMINISTRADOR DEL ACUERDO NO SERÁ DEVUELTA NI CONSERVADA.**

Las Partes y el Administrador de la Conciliación evaluarán las pruebas presentadas y discutirán de buena fe cómo resolver cualquier disputa presentada por los miembros de la Conciliación de la Demanda Colectiva. El Administrador de la Conciliación tomará una decisión inicial con respecto a cualquier disputa presentada por los miembros de la Conciliación de la Demanda Colectiva; sin embargo, el tribunal tendrá derecho a revisar la decisión inicial del Administrador de la Conciliación y tomará la decisión final con respecto a cualquier disputa presentada.

Excluirse de la Conciliación. En caso de **no** querer participar en la Conciliación, puede excluirse enviando al Administrador de la Conciliación un formulario de solicitud de exclusión firmado a más tardar el <<TIEMPO DE RESPUESTA>>, con su nombre, dirección, número de teléfono, los últimos cuatro dígitos de su seguro social y su firma. El formulario de solicitud de exclusión se incluye en este Aviso.

Envíe el formulario de solicitud de exclusión directamente al Administrador de la Conciliación a <<INSERTE LA INFORMACIÓN DE CONTACTO DEL ADMINISTRADOR>>. Cualquier persona que envíe un formulario de solicitud de exclusión dentro del plazo indicado dejará de ser, al recibirlo el Administrador de la Conciliación, un miembro del de la Demanda Colectiva, no podrá participar en ninguna parte de la Conciliación y no recibirá ningún beneficio de la misma. **No presente una disputa y una solicitud de exclusión al mismo tiempo.** De hacerlo, la solicitud de exclusión perderá validez, se le incluirá como miembro de la Conciliación de la Demanda Colectiva y quedará obligado a cumplir los términos de la Conciliación.

Oposición a la Conciliación. Usted también tiene derecho a oponerse a los términos de la Conciliación. Sin embargo, si el tribunal rechaza su objeción, usted seguirá estando obligado a cumplir los términos de la misma. Si desea oponerse a la Conciliación, o a cualquier parte de la misma, puede enviar una objeción por escrito al Administrador de la Conciliación a <<INSERTE LA INFORMACIÓN DE CONTACTO DEL ADMINISTRADOR>>. Todas las objeciones y la correspondencia deben enviarse directamente al Administrador de la Conciliación. Por favor, no envíe sus objeciones o correspondencia al tribunal. Toda objeción será proporcionada al tribunal por el Demandante en relación con la Audiencia de Aprobación Final. Su objeción escrita debe incluir su nombre, dirección, así como la información de contacto de cualquier abogado que le represente, y el nombre y número del caso. Las objeciones deben presentarse por escrito y deben estar mataselladas en o antes del <<TIEMPO DE RESPUESTA>>. Pese a lo anterior, no es necesario que usted se oponga por escrito para ser escuchado en la Audiencia de Aprobación Final.

También puede comparecer en la Audiencia de Aprobación Final programada para el 30 de septiembre del 2021 a las 2:00 p.m. en el Departamento CX102 del Tribunal Superior del Condado de Orange, ubicado en 751 West Santa Ana Boulevard, Santa Ana, California 92701. Tiene además derecho a comparecer en persona o mediante su propio abogado en esta audiencia. Todas las objeciones u otra correspondencia deben indicar el nombre y el número del caso, el cual es *Manuel Chavez contra Tropical Plaza Nursery, Inc.*, Tribunal Superior del Condado de Orange, Caso No. 30-2020-01122820-CU-OE-CXC.

En el caso de que se oponga a esta Conciliación, seguirá siendo miembro de la Conciliación de la Demanda Colectiva y, en caso de que el tribunal apruebe la misma, estará obligado a cumplir los términos de esta al igual que los miembros que no se opongan.

¿Cuál es el siguiente paso?

El tribunal celebrará una Audiencia de Aprobación Definitiva para determinar la adecuación, razonabilidad y equidad de la Conciliación el 30 de septiembre del 2021 a las 2:00 p.m. en el Departamento CX102 del Tribunal Superior del Condado de Orange, ubicado en 751 West Santa Ana Boulevard, Santa Ana, California 92701. Asimismo, se le solicitará al tribunal que se pronuncie sobre la solicitud de los Abogados de la Demanda Colectiva respecto sus honorarios y el reembolso de los costos y gastos documentados, así como el pago incrementado del Representante de la Demanda Colectiva. La Audiencia de Aprobación Definitiva podrá posponerse sin previo aviso a los miembros de la Conciliación de la Demanda Colectiva. **No es necesario que asista a la Audiencia de Aprobación Definitiva. Sin embargo, todos los miembros de la Conciliación de la Demanda Colectiva son bienvenidos.**

En caso de que el Tribunal otorgue la Aprobación Definitiva, este emitirá una sentencia definitiva que se publicará en la página web del Administrador de la Conciliación (<http://www.phoenixclassaction.com>).

¿Cómo puedo obtener información adicional?

Este Aviso es solo un resumen de la Acción y de la Conciliación. Para obtener más información, puede revisar los archivos del Tribunal y el Acuerdo de Conciliación en la Oficina del Secretario del Tribunal Superior del Condado de Orange, ubicada en 751 West Santa Ana Boulevard, Santa Ana, California 92701, en horario de oficina. También puede visitar el sitio web del Tribunal Superior del Condado de Orange en www.occourts.org para inspeccionar los archivos del Tribunal accediendo a la pestaña “Online Case Access” (Acceso a Casos En Línea), seleccionando “Civil Case & Document Access” (Acceso a Casos y Documentos Civiles), e ingresando la información del número de caso. Para obtener más información, puede ponerse en contacto con los Abogados de la Demanda Colectiva haciendo uso de los datos de contacto indicados anteriormente.

POR FAVOR, NO LLAME NI ESCRIBA AL TRIBUNAL, A TROPICAL PLAZA NI A SUS ABOGADOS PARA OBTENER INFORMACIÓN SOBRE ESTA CONCILIACIÓN O EL PROCESO DE CONCILIACIÓN

RECORDATORIO SOBRE LOS PLAZOS DE TIEMPO

El plazo para presentar cualquier disputa, solicitud de exclusión u objeción es <<TIEMPO DE RESPUESTA>>. Dichos plazos serán aplicados de forma estricta.

EXHIBIT 8

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12 Attorneys for Plaintiff

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE

MANUEL CHAVEZ, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

TROPICAL PLAZA NURSERY, INC., a
California Corporation; and DOES 1 through
100,

Defendants.

Case No. 30-2020-01122820-CU-OE-CXC

*[Assigned for all purposes to Hon. Peter
Wilson; Dept. CX-102]*

**[AMENDED PROPOSED] ORDER
GRANTING PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT**

Date: ~~April 4~~ May 13, 2021

Time: 2:00 p.m.

Dept: CX-102

Complaint filed: January 9, 2020

Trial Date: None Set

1 The Motion of Plaintiff Manuel Chavez ("Plaintiff") for Preliminary Approval of Class
2 Action Settlement came on regularly for hearing before this Court on ~~April 1~~ May 13, 2021 at
3 2:00 p.m. This Court, having considered the proposed Stipulation of Settlement (the
4 "Settlement"), ~~attached to the Declaration of Sean M. Blakely filed concurrently herein and the~~
5 amendment to the Settlement; having considered Plaintiff's Motion for Preliminary Approval of
6 Class Action Settlement, Memorandum of Points and Authorities in support thereof, and
7 supporting declarations filed therewith; and good cause appearing, HEREBY ORDERS THE
8 FOLLOWING:

9 1. The Court GRANTS preliminary approval of the class action settlement as set
10 forth in the Settlement and finds its terms to be within the range of reasonableness of a settlement
11 that ultimately could be granted approval by the Court at a Final Fairness Hearing. For purposes
12 of the Settlement, the Court finds that the proposed Settlement Class is ascertainable and that
13 there is a sufficiently well-defined community of interest among the members of the Settlement
14 Class in questions of law and fact. Therefore, for settlement purposes only, the Court grants
15 conditional certification of the following Settlement Class:

16 All current and former non-exempt employees who are or were
17 employed by Tropical Plaza Nursery, Inc. in the position of field
18 worker in the State of California during the time period of January
19 9, 2016 through the date of preliminary approval of the settlement
20 ("Class Period").

21 2. For purposes of the Settlement, the Court designates named Plaintiff Manuel
22 Chavez as Class Representative, and designates Paul K. Haines and Sean M. Blakely of Haines
23 Law Group, APC as Class Counsel.

24 3. The Court designates Phoenix Settlement Administrators as the third-party
25 Settlement Administrator for mailing notices.

26 4. The Court approves, as to form and content, the Class Notice, Notice of Estimated
27 Settlement Award, and Request for Exclusion Form, attached as Exhibits 1, 2, and 3, respectively,
28 to ~~the Settlement~~ this Proposed Order.

5. The Court preliminarily approves the Settlement Agreement and the amendment

thereto, attached as Exhibits 4 and 5, respectively, to this Proposed Order.

5.6. The Court finds that the form of notice to the Settlement Class regarding the pendency of the action and of the Settlement, and the methods of giving notice to members of the Settlement Class, constitute the best notice practicable under the circumstances, and constitute valid, due, and sufficient notice to all of the Settlement Class members. The form and method of giving notice complies fully with the requirements of California Code of Civil Procedure section 382, California Civil Code section 1781, California Rules of Court 3.766 and 3.769, the California and United States Constitutions, and other applicable law.

6.7. The Court further approves the procedures for the Settlement Class members to opt out of or object to the Settlement, as set forth in the Class Notice.

7.8. The procedures and requirements for filing objections in connection with the Final Fairness Hearing are intended to ensure the efficient administration of justice and the orderly presentation of any Settlement Class member's objection to the Settlement in accordance with the due process rights of all members of the Settlement Class.

8.9. The Court directs the Settlement Administrator to mail the Class Notice to the members of the Settlement Class in accordance with the terms of the Settlement.

9.10. The Class Notice shall provide at least sixty (60) calendar days' notice for Settlement Class members to opt out of, or object to, the Settlement.

10.11. The Final Fairness Hearing on the question of whether the Settlement should be finally approved as fair, reasonable, and adequate is scheduled in Department CX-102 of this Court, located at 751 West Santa Ana Blvd., Santa Ana, California 92701 on September 30, 2021 at a.m./2:00 p.m.

11.12. At the Final Fairness Hearing, the Court will consider: (a) whether the Settlement should be finally approved as fair, reasonable, and adequate for the Settlement Class; (b) whether a judgment granting final approval of the Settlement should be entered; and (c) whether Plaintiff's application for reasonable attorneys' fees; (in an amount not to exceed \$133,333.33), reimbursement of litigation expenses; (in an amount not to exceed \$20,000.00), enhancement payment to Plaintiff; (in an amount not to exceed \$5,000.00), settlement administration costs; (in

an amount not to exceed \$7,500.00, and payment to the Labor & Workforce Development Agency (“LWDA”) for penalties under the Labor Code Private Attorneys General Act (“PAGA”) (in an amount not to exceed \$15,000.00) should be granted.

12-13. Counsel for the parties shall file memoranda, declarations, or other statements and materials in support of their request for final approval of the Settlement, attorneys’ fees, litigation expenses, Plaintiff’s enhancement payment, payment to the LWDA, and settlement administration costs, prior to the Final Fairness Hearing according to the time limits set by the Code of Civil Procedure and the California Rules of Court.

13-14. An implementation schedule is below:

Event	Date
Defendant to provide Class Data to the Settlement Administrator no later than [10 business days after preliminary approval]:	April 15 <u>May 27</u> , 2021
Settlement Administrator to mail the Notice Packet to Settlement Class members no later than [10 business days after receiving Class Data]:	April 29 <u>June 11</u> , 2021
Deadline for Settlement Class members to request exclusion from, or object to, the Settlement [60 calendar days after mailing]:	June 28 <u>August 10</u> , 2021
Deadline for Plaintiff to file his Motion for Final Approval of Class Action Settlement:	July 30 <u>September 8</u> , 2021
Final Fairness Hearing:	_____ <u>September 30</u> , 2021

14-15. Pending the Final Fairness Hearing, all proceedings in this action, other than proceedings necessary to carry out or enforce the terms and conditions of the Settlement and this Order, are stayed.

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2 15-16. Counsel for the parties are hereby authorized to utilize all reasonable procedures
3 in connection with the administration of the Settlement which are not materially inconsistent with
4 either this Order or the terms of the Settlement.

5 **IT IS SO ORDERED.**

6
7 Dated: _____, 2021

Honorable Peter Wilson
Judge of the Superior Court