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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]*

**NOTICE OF CONTINUANCE OF
HEARING**

Complaint Filed: January 9, 2020
Trial Date: None Set

1 **TO THE LABOR AND WORKFORCE DEVELOPMENT AGENCY,**
2 **DEFENDANT, AND ITS ATTORNEYS OF RECORD:**

3 **PLEASE TAKE NOTICE** that the Court in the above-captioned action has continued the
4 hearing Plaintiff's Motion for Preliminary Approval of Class Action Settlement, previously set for
5 April 8, 2021, to May 13, 2021, at 2:00 p.m. in Department CX-102. A true and correct copy of
6 the text of the Court's applicable Tentative Ruling is attached hereto as Exhibit "A".
7

8 Date: May 4, 2021

HAINES LAW GROUP, APC

9
10 By:



Paul K. Haines
Sean M. Blakely
Attorneys for Plaintiff

EXHIBIT A

The hearing on the Motion for Preliminary Approval is CONTINUED to May 6, 2021 at 2:00 p.m. in department CX102 to permit the parties to respond to the following issues. A supplemental briefing shall be filed at least 9 days before the continued hearing and respond where necessary to the points raised below. Redlined versions of the revised proposed Class Notice and proposed order are to be provided. If required, an amendment to the settlement agreement is directed, rather than "amended settlement agreement", to avoid waste of limited Court time and resources.

Further, the parties are reminded to properly bookmark their exhibits. CRC 3.1110(f)(4).

As to the Settlement

1. The Settlement should be revised so that the parties file with the Court all disputes submitted by class members, the evidence submitted, and the resolution of those disputes. Although the Settlement Administrator may make the initial decision, the Settlement should be revised so that the Court shall have the right to review any decision made by the settlement administrator regarding a claim dispute.
2. The Dispute Form attached as Exhibit 2 to the Settlement provides that Defendant's records "will control" unless the disputing Class member is "able to provide documentation that establishes otherwise and that '[Defendant's] records are mistaken.'" However, Plaintiff alleges that Defendant had a policy of time-shaving and paying only for hours scheduled rather than hours worked. This suggests that Defendant's time and pay records are not accurate. Therefore, it appears unfair that Defendant's records "will control" unless the disputing Class Member provides documentation to show otherwise. Moreover, the Settlement language is more neutral and does not state that Defendant's records "will control".
3. At final approval Counsel should provide billing records in support of its fees and documentation of its costs. Further, Plaintiff's counsel must disclose whether they have any fee-splitting arrangement with any other counsel, or confirm none exist. (*Barnes, Crosby, Fitzgerald & Zeman, LLP v. Ringler* (2012) 212 Cal.App.4th 172, 184; California Rules of Court, rule 3.769(b).)
4. The Court will determine the appropriate amount of Plaintiff's enhancement at final approval. At final approval, Plaintiff should submit a declaration addressing the factors set forth in *Golba v. Dick's Sporting Goods, Inc.* (2015) 238 Cal.App.4th 1251, 1272 and *Clark v. Am. Residential Servs. LLC* (2009) 175 Cal.App.4th 785, 804, including an estimate of the hours spent on this litigation.
5. Section ¶9.D in the Settlement should be revised to remove the reference to requiring an objector to provide the legal bases for his or her objection and supporting papers. An objector may provide this information, but it is not required.
6. The Settlement Administrator's quote is not to exceed \$7,500. Lawrence Decl., at 16 and Ex. B. Why do the parties seek \$10,000 in settlement administration costs?
7. Plaintiff is required to submit his PAGA Notice letter dated January 13, 2020 as alleged in the FAC, at ¶ 57.
8. The parties have not indicated whether they are aware of any related matters.

Issues re Class Notice

1. The Class Notice is to be revised consistent with the issues addressed above.
2. Does Class Notice need to be translated in any other language? The certified transcription of the Spanish version of the Class Notice should be submitted to the Court.
3. The Section "How Can I Claim Money From the Settlement" at p. 4 makes no reference to the wage statement amount of the settlement.
4. The last paragraph on p. 4 should be revised to inform Class Members that the Court shall have the right to review any decision made by the settlement administrator.
5. On p. 5, a date for the Final Approval hearing should be proposed and filled in the Class Notice. The Court sets Final Approval hearings on Thursdays at 2 p.m.
6. Will the Settlement Administrator's website include any other documents in this case aside from the Final Judgment? If so, the website should be included in the "How Do I Get Additional Information" section at p. 5.

Issues re Proposed Order

1. The proposed order is to be revised consistent with the issues addressed above.
2. Settlement and Notice should be attached to the proposed order as an exhibit.
3. The parties should propose a date for the final approval hearing.
4. The proposed order does not include the not to exceed amounts for Settlement.

Plaintiff is ordered to give notice, including to the LWDA. Any supplemental brief and/or amendments made pursuant to this Order should also be filed with LWDA along with notice of the continued hearing date, with a proof of service submitted to the Court.