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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]*

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

Date: April 1, 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. I am a 2008 graduate of Southwestern Law School. I was admitted to the
8 California State Bar in September 2009. From December 2010 to September 2011, I worked as
9 a Law Clerk for Rose, Klein & Marias, a civil litigation firm in Long Beach, California. At Rose,
10 Klein & Marias I assisted trial attorneys in employment and personal injury cases. From
11 September 2011 to May 2016, I worked as an associate at the employment law firm of Mahoney
12 Law Group, APC in Long Beach, California. The vast majority of my work at Mahoney Law
13 Group, APC focused on representing employees in wage and hour class actions. My work at
14 Mahoney Law Group, APC also included representing employees in individual claims for
15 wrongful termination, harassment, discrimination, and retaliation. Although non-exhaustive, the
16 types of work I performed at Mahoney Law Group, APC included: conducting client intakes;
17 performing pre-filing research and analysis; drafting complaints; attending court hearings;
18 corresponding with opposing counsel; drafting and responding to written discovery; preparing for
19 and taking and defending depositions; analyzing payroll and timekeeping records and employee
20 handbooks; opposing motions for summary judgment, as well as drafting a variety of other
21 motions such as motions for remand, demurrers and motions to dismiss, motions to strike, motions
22 to compel, motions to quash, and motions for class certification; drafting mediation briefs;
23 attending mediations; drafting and negotiating long-form settlement agreements; drafting motions
24 for preliminary and final settlement approval; and overseeing the claims process.

25 3. Since November 8, 2016, I have worked at my current firm, Haines Law Group,
26 APC. I am currently staffed on over forty (40) active wage and hour class actions in both state
27 and federal court.

28 4. The following is a non-exhaustive list of wage and hour class actions in which I

1 have been appointed as class counsel and/or played a significant role in prosecuting the litigation,
2 and which have received final approval: *Santimateo v. Sun Healthcare Group, Inc., et al*, Case
3 No. BC471884, California Superior Court, Los Angeles County, Judge Jane L. Johnson presiding
4 (granted final approval of settlement on behalf of employees at rehabilitation facility involving
5 claims for unpaid wages and meal and rest period violations, and other claims, in which I was
6 approved at an hourly rate of \$325 for work performed in 2012-2013); *Teyuca v. Pacific Alliance*
7 *Medical Center, Inc.*, California Superior Court, Los Angeles County, Judge William F.
8 Highberger presiding (granting final approval of settlement on behalf of healthcare workers for
9 unpaid wages, meal and rest period violations, and other claims, in which I was approved at an
10 hourly rate of \$325 for work performed in 2012-2013); *Arteaga v. Command Center Security,*
11 *Inc.*, Case No. BC480496, California Superior Court, Los Angeles County, Judge John Shepard
12 Wiley, Jr. presiding (granting final approval of settlement on behalf of security guards involving
13 claims for unpaid overtime, meal and rest period violations, and other claims, in which I was
14 approved at an hourly rate of \$425 for work performed in 2012-2015); *Casadine v. Maxim*
15 *Healthcare Services, Inc.*, Case No. CV 12-10078-DMG (CWx), United States District Court,
16 Central District of California, Judge Dolly M. Gee presiding (granting final approval of settlement
17 on behalf of home health care employees involving claims for unpaid wages and other claims, in
18 which I was approved at an hourly rate of \$425 for work performed in 2012-2015); *Guzman v.*
19 *Andrew Lauren Interiors, Inc., et al.*, Case No. BC567757, California Superior Court, Los
20 Angeles County, Judge Elihu M. Berle presiding (granting final approval of settlement on behalf
21 of construction workers involving claims for unpaid wages, meal and rest period violation, and
22 other claims, in which I was approved at an hourly rate of \$425 for work performed in 2014-
23 2016); *Booker v. The Goodyear Tire and Rubber Company*, Case No. BC498399, California
24 Superior Court, Los Angeles County, Judge Amy Hogue presiding (granting final approval of
25 settlement on behalf of tire mechanics involving claims for unpaid wages, meal and rest period
26 violations, and other claims, in which I was approved at an hourly rate of \$425 for work performed
27 in 2013-2015); *Nunez v. CompuCom Systems, Inc.*, Case No. BC618385, California Superior
28 Court, Los Angeles County, Judge John Shepard Wiley, Jr. presiding (granting final approval of

1 settlement on behalf of IT support workers for overtime, meal and period, reimbursement, and
2 related violations, approved at hourly rate of \$475 for work performed in 2016 and 2017); *Galvan*
3 *v. AMVAC Chemical Corporation*, Case No. 30-2014-00716103-CU-OE-CXC, California
4 Superior Court, Orange County, Judge William D. Claster presiding (granting final approval of
5 settlement on behalf of non-exempt employees of a chemical manufacturing company involving
6 claims for unpaid overtime and waiting time penalties); *Razon v. TTM Technologies, Inc., et al.*,
7 Case No. 37-2016-00038326-CU-OE-CTL, California Superior Court, San Diego County, Judge
8 Gregory W. Pollack presiding (granting final approval of settlement involving claims for unpaid
9 overtime wages, wage statement violations, and meal period violations); *Blank v. Coty, Inc., et*
10 *al.*, Case No. BC624850, California Superior Court, Los Angeles County, Judge Williams F.
11 Highberger presiding (granting final approval of settlement involving claims for wage statement
12 violations, meal period violations, and other claims); *Morales v. Caremeridian, LLC, et al.*, Case
13 No. BC593191, California Superior Court, Los Angeles County, Judge William F. Highberger
14 presiding (granting final approval of settlement on behalf of direct support professionals
15 involving claims for unpaid wages, meal and rest period violations, wage statement violations,
16 and other claims); *Aguilar v. Act Fulfillment, Inc.*, Case No. RIC1616643, California Superior
17 Court, Riverside County, Judge Sharon J. Waters presiding (granting final approval of settlement
18 on behalf of non-exempt factory workers involving claims for meal period violations); *Sandoval*
19 *v. AMCOR Flexibles Inc.*, Case No. BC617499, California Superior Court, Los Angeles County,
20 Judge Kenneth R. Freeman presiding (granting final approval of settlement on behalf of
21 manufacturing employees involving claims for unpaid wages, meal period violations, rest period
22 violations, and waiting time penalties); *Le v. GBW Railcar Services, L.L.C.*, Case No.
23 RIC1612209, California Superior Court, Riverside County, Judge Sharon J. Waters presiding
24 (granting final approval of settlement on behalf of non-exempt employees of a freight railcar
25 manufacturer involving claims for unpaid overtime and minimum wages, meal period violations,
26 and rest period violations); *Silva v. ADJ Products, LLC*, Case No. BC618581, California Superior
27 Court, Los Angeles County, Judge William F. Highberger presiding (granting final approval of
28 settlement involving claims for unpaid overtime and minimum wages, rest period violations,

wage statement violations, and waiting time penalties); *Lira v. Discus Dental, LLC, et al.*, Case No. CIVDS1620402, California Superior Court, San Bernardino County, Judge David Cohn presiding (granting final approval of settlement on behalf of non-exempt manufacturing employees involving claims for unpaid minimum and overtime wages, meal and rest period violations, and other claims); *Gonzales v. PathPoint*, Case No. BC657147, California Superior Court, Los Angeles County, Judge Carolyn B. Kuhl presiding (granting final approval of settlement on behalf of non-exempt direct support professionals involving claims for meal and rest period violations and other claims); *Duran v. PRADA USA CORP.*, Case No. BC644319, California Superior Court, Los Angeles County, Judge Maren E. Nelson presiding (granting final approval of settlement on behalf of non-exempt commissioned salespersons involving claims for unpaid overtime wages, meal and rest period violations, failure to reimburse for necessary expenditures, and other claims); *Banegas v. UPM, Inc.*, Case No. BC644438, California Superior Court, Los Angeles County, Judge Carolyn B. Kuhl presiding (granting final approval of settlement on behalf of non-exempt manufacturing employees involving claims for unpaid wages, meal and rest period violations, and other claims); *Palafox v. Pacific Line Clean-Up, Inc.*, Case No. 30-2017-00921632-CU-OE-CXC, California Superior Court, Orange County, Judge William D. Claster presiding (granting final approval of settlement on behalf of non-exempt employees involving claims for unpaid overtime wages, meal and rest period violations, and other claims); *Janet Arroyo v. AST Sportswear, Inc., dba Bayside Apparel Manufacturing, Inc.*, Case No. 30-2017-00909663-CU-OE-CXC, California Superior Court, Orange County, Judge Glenda Sanders presiding (granting final approval of settlement on behalf of non-exempt garment employees involving claims for unpaid minimum wages, meal and rest period violations, and other claims); *Carlos Garcia v. Fabrica International, Inc.*, Case No. 30-2017-00949461-CU-OE-CXC, California Superior Court, Orange County, Judge William D. Claster presiding (granting final approval of settlement on behalf of non-exempt manufacturing employees involving claims for unpaid minimum and overtime wages, meal and rest period violations, and statutory penalties); *Jonathan Leon v. Piercey West, Inc.*, Case No. BC656874, California Superior Court, Los Angeles County, Judge Amy D. Hogue presiding (granting final approval of settlement on behalf

1 of non-exempt commissioned salespersons and other employees involving claims for unpaid
2 wages, meal and rest period violations, unreimbursed business expenses, and other claims); and
3 *Matthew Tovar, et al. v. Rentokil North America, Inc.*, Case No. BC676386, California Superior
4 Court, Los Angeles County, Judge Daniel J. Buckley presiding (granting final approval of
5 settlement on behalf of non-exempt employees involving claims for unpaid overtime, meal and
6 rest break violations, and other claims); *Seungmin Samantha Lee v. Infor (US) Inc.*, Case No.
7 CGC-18-566393, California Superior Court, San Francisco County, Judge Ethan P. Schulman
8 presiding (granting final approval of settlement on behalf of sales development representatives
9 involving claims for unpaid overtime, meal and rest period violations, and penalty claims); *Tracy*
10 *Aguilar, et al. v. Aero Port Services, Inc.*, Case No. BC659234, California Superior Court, Los
11 Angeles County, Judge Carolyn B. Kuhl presiding (granting final approval of settlement on behalf
12 of non-exempt employees involving claims for meal and rest period violations, and other claims);
13 *Carlos Perez, et al. v. Moss Bros. Auto Group, Inc., et al.*, Case No. RIC1709905, California
14 Superior Court, Riverside County, Judge Sunshine S. Sykes presiding (granting final approval of
15 settlement on behalf of non-exempt commissioned salespersons involving claims for unpaid
16 wages, meal and rest period violations, other claims); *Julio Alfaro v. Orange Automotive d/b/a*
17 *Kia of Orange*, Case No. 30-2017-00945105-CU-OE-CXC, California Superior Court, Orange
18 County, Judge Randall J. Sherman presiding (granting final approval settlement on behalf of non-
19 exempt commissioned employees involving claims for unpaid wages, meal and rest period
20 violations, unreimbursed business expenses, and penalty claims); *Sepulveda, et al. v. Caliber*
21 *Collision Transport Service LLC, et al.*, Case No. BC669786, California Superior Court, Los
22 Angeles County, Judge Carolyn B. Kuhl presiding (granting final approval of settlement on behalf
23 of non-exempt commissioned employees involving claims for unpaid wages, meal and rest period
24 violations, and penalty claims); *Mariela Cruz v. Traina Dried Fruit, Inc.*, Case No. 9000819,
25 California Superior Court, Stanislaus County, Judge Marie Sovey Silveira presiding (granting
26 final approval of settlement on behalf of non-exempt employees involving claims for unpaid
27 wages, meal and rest period violations, and penalty claims); *Joshua Anthony v. Semper Solaris*
28 *Construction Inc.*, Case No. 37-2018-00035320-CU-OE-CTL, California Superior Court, San

1 Diego County, Judge Gregory W. Pollack presiding (granting final approval of settlement on
2 behalf of non-exempt employees involving claims for overtime wages, wage statement penalties,
3 waiting time penalties, and PAGA civil penalties); *Fabio Gallo v. Coast Composites, LLC*, Case
4 No. 30-2018-01016120-CU-OE-CXC, California Superior Court, Orange County, Judge Glenda
5 Sanders presiding (granting final approval of settlement on behalf of non-exempt employees
6 involving claims for wage statement violations and PAGA civil penalties); and *Maria Jessenia*
7 *Gomez, et al. v. CareMeridian, LLC*, Case No. BC655730, California Superior Court, Los
8 Angeles County, Judge William F. Highberger presiding (granting final approval of settlement
9 on behalf of non-exempt nursing employees involving claims for meal and rest period violations,
10 minimum and overtime violations, and penalty claims).

11 5. I have also moved to certify and have received an order certifying a class action in
12 *Ontiveros v. Safelite Fulfillment, Inc., et al.*, Case No. CV 15-7118-DMG (RAOx), United States
13 District Court, Central District of California, Honorable Dolly M. Gee presiding (certifying six
14 classes of employees for rest period violations, wage statement violations, meal period violations,
15 and overtime and double-time violations); and *Vazquez v. Kraft Heinz Foods Company*, Case No.
16 16-CV-02749-WQH (BLM), United States District Court, Southern District of California,
17 Honorable William Q. Hayes, presiding (certifying unpaid wages classes, meal period classes,
18 wage statement class, and waiting time penalty class).

19 6. In 2018, 2019, 2020, and 2021, Thomson Reuters recognized me as a Top Young
20 Attorney in Southern California in the annual Rising Star Edition of Super Lawyers. This is an
21 honor awarded to no more than two-and-a-half percent (2.5%) of attorneys under the age of forty
22 in Southern California each year.

23 7. As counsel for Plaintiff and the proposed Settlement Class, I have been intimately
24 involved in every aspect of this case from its inception through the present, and I believe that the
25 proposed Settlement is a favorable result for the Settlement Class.

26 8. Defendant Tropical Plaza Nursery, Inc. (“Tropical Plaza”) provides landscape and
27 hardscape services, irrigation design and implementation, and other outdoor maintenance services
28 to municipalities, residences and commercial buildings.

1 9. On January 9, 2020, Plaintiff filed a class action complaint against Tropical Plaza
2 in Orange County Superior Court alleging the following causes of action: (1) Failure to Pay All
3 Overtime Wages; (2) Minimum Wage Violations; (3) Rest Period Violations; (4) Meal Period
4 Violations; (5) Wage Statement Violations; (6) Waiting Time Penalties; and (7) Unfair
5 Competition. On May 26, 2020, Plaintiff filed the operative First Amended Class and
6 Representative Action Complaint to add a cause of action for civil penalties under the PAGA.

7 10. In connection with mediation, Tropical Plaza produced timekeeping and payroll
8 data for a 20% random sampling of Settlement Class members, along with Tropical Plaza's
9 written wage and hour policies and other documents and information. Tropical Plaza also
10 produced a class list which included the total number of putative class members and hire and
11 termination dates for all putative class members. Plaintiff conducted a comprehensive analysis
12 and extrapolation of the data produced by Tropical Plaza to calculate Tropical Plaza's potential
13 exposure for each of Plaintiff's claims. Plaintiff's counsel also interviewed putative class
14 members regarding their work experiences at Tropical Plaza. This discovery allowed the parties
15 to assess the merits and value of Plaintiff's claims, the chances for class certification, and Tropical
16 Plaza's potential defenses.

17 11. On October 21, 2020, the parties participated in a full-day mediation with the Hon.
18 Peter D. Lichtman (Ret.), a preeminent wage and hour class action mediator. During mediation,
19 the parties vigorously debated their opposing legal positions, the likelihood of certification of
20 Plaintiff's claims, and the legal basis for the claims and defenses. The parties reached a tentative
21 class-wide settlement at the conclusion of the mediation. During the months that followed, the
22 parties finalized the terms of the Settlement and executed the long-form Settlement Agreement
23 now before this Court. A true and correct copy of the Settlement Agreement is attached hereto as
24 **Exhibit A**. The proposed Class Notice, Notice of Estimated Settlement Award, and Request for
25 Exclusion Form are attached as **Exhibits 1, 2, and 3**, respectively, to the Settlement Agreement.

26 12. The monetary terms of the Settlement are summarized below:

27 Gross Settlement Amount ("GSA"):	\$400,000.00
28 Minus Court-approved attorneys' fees (1/3 of MSA):	\$133,333.33

1	Minus Court-approved, verified costs (up to):	\$20,000.00
2	Minus Court-approved Class Representative Enhancement Payment:	\$5,000.00
3	Minus Settlement Administrator costs:	\$10,000.00
4	Minus PAGA payment to the LWDA:	\$15,000.00
5	Net Settlement Amount (“NSA”):	\$216,666.67

6

7 13. According to Tropical Plaza, there are approximately 190 total Settlement Class

8 members. Therefore, the average individual Settlement Award is projected to be approximately

9 \$1,140.35.

10 14. As described in the accompanying Motion for Preliminary Approval of Class

11 Action Settlement, Plaintiff alleges that Tropical Plaza had a policy/practice of rounding

12 timekeeping entries, however, its timekeeping policy/practice was not neutral or even-handed,

13 resulting in unpaid wages to Settlement Class members. Specifically, Plaintiff alleges that

14 Tropical Plaza had a policy/practice whereby Settlement Class members are allowed to clock in

15 for their shifts before their scheduled start time, however, Tropical Plaza does not compensate for

16 this time and rounds the clock-in time up to the scheduled start time of the work shifts. Similarly,

17 Plaintiff alleges that Settlement Class members regularly worked past the scheduled end time of

18 their shifts, however, Tropical Plaza only compensated Settlement Class members based on their

19 scheduled end times, and did not compensate for hours worked after the scheduled end of shift.

20 Plaintiff alleges that Tropical Plaza’s uneven timekeeping policies/practices resulted in a

21 systematic underpayment of wages to Settlement Class members. Plaintiff’s analysis of the

22 timekeeping and payroll data showed that Settlement Class members were underpaid for

23 approximately 10,973 hours in the aggregate over the Class Period. Settlement Class members’

24 average hourly rate of pay during the Class Period was approximately \$13.31. Therefore, Plaintiff

25 calculates Tropical Plaza’s maximum potential exposure for this claim to be \$146,050 (10,973

26 hours * \$13.31 average hourly rate). However, Tropical Plaza maintains that its timekeeping

27 policies are both facially neutral and even-handed in practice, and over time, compensate

28 Settlement Class members for all hours worked. Tropical Plaza contends that while Settlement

1 Class members were able to clock-in before their scheduled start time, this was for the employee's
2 convenience and it was not possible for Settlement Class members to begin working prior to the
3 scheduled start of shift, and therefore, Settlement Class members could not perform compensable
4 work prior to the start of their scheduled shift. Tropical Plaza further argues that any unpaid time
5 could have only amounted to a few minutes per day, at most, and was thus *de minimis* and not
6 compensable. Tropical Plaza further argues that Plaintiff could not certify this claim due to the
7 differences in how employees were affected by the policy/practice (i.e., some were overpaid while
8 others were potentially underpaid), and that individualized inquiries would be required to
9 determine whether each employee performed work prior to the scheduled start of shift and after
10 the scheduled end of shift, creating an unmanageable series of mini-trials. In light of these
11 defenses, Plaintiff discounted Tropical Plaza's calculated exposure by 30% for risk of non-
12 certification, and an additional 35% for risk of losing on the merits and/or not recovering the full
13 amount of damages sought, to arrive at an estimated exposure of \$66,453.

14 15. Plaintiff alleges that Tropical Plaza failed to pay all overtime wages due to its
15 failure to pay daily overtime wages in accordance with California law. Specifically, Plaintiff
16 alleges that Tropical Plaza only paid overtime wages for work performed in excess of forty (40)
17 hours per workweek and does not pay daily overtime for work performed in excess of eight (8)
18 hours per workday. Based on Plaintiff's review of Tropical Plaza's timekeeping and payroll
19 records, Plaintiff estimates Tropical Plaza's maximum exposure for failure to pay daily overtime
20 wages at approximately \$71,237. However, Tropical Plaza argues that it paid all overtime wages
21 owed to Settlement Class members and has at all times complied with California law regarding
22 overtime compensation. Tropical Plaza further argues that Settlement Class members rarely
23 worked in excess of eight (8) hours in a workday, and therefore, any alleged unpaid overtime was
24 minimal. In light of these defenses, Plaintiff discounted Tropical Plaza's calculated exposure by
25 15% for risk of non-certification, and an additional 15% for risk of losing on the merits and/or
26 not recovering the full amount of damages sought, to arrive at an estimated exposure of \$51,470.

27 16. Plaintiff alleges that he and other Settlement Class members worked in excess of
28 eight (8) hours per workday and/or forty (40) hours per workweek, but were not compensated at

one and one-half times their regular rate of pay for such hours, as a result of Tropical Plaza's failure to include non-discretionary bonuses when calculating an employee's regular rate of pay. As a result, Plaintiff alleges that he and other Settlement Class members were systematically underpaid for their overtime hours worked, in violation of California law. Plaintiff calculated Tropical Plaza's maximum potential liability to be approximately \$29,784 in unpaid overtime due to the regular rate violations during the Class Period. Tropical Plaza asserts that it did not use a formula or any set of criteria to determine which employees receive the alleged bonus payment. Tropical Plaza contends that at all relevant times the bonuses it paid to its non-exempt employees were discretionary. Tropical Plaza argues that differences in the frequency, type, and amount of bonuses and various forms of incentive pay received by Settlement Class members would preclude class certification of this claim. In light of these defenses, Plaintiff discounted Tropical Plaza's calculated exposure by 20% for risk of non-certification, and an additional 20% for risk of losing on the merits and/or not recovering the full amount of damages sought, to arrive at an estimated exposure of \$19,063.

17. Plaintiff alleges that Tropical Plaza failed to provide legally-compliant meal periods, such that first meal periods regularly commenced after the completion of the fifth hour of work due to work demands imposed by Tropical Plaza, and often were not provided at all. Plaintiff also alleges that Tropical Plaza failed to accurately record the start and end times of each meal period, and instead automatically deducted hours worked from Settlement Class members for a purported meal period. Plaintiff alleges this automatic deduction was done regardless of whether an uninterrupted 30-minute meal period was actually provided. Plaintiff's analysis of the timekeeping data showed there were approximately 25,640 shifts over 6.0 hours worked in the Class Period. As stated above, Settlement Class members did not clock-out/in for meal periods, rather Tropical Plaza automatically deducted hours from Settlement Class members' daily hours worked for a purported meal period. Because there are no meal period punches for shifts over 6.0 hours, based on Plaintiff's investigation, Plaintiff estimated a 50% meal period violation rate for all shifts over 6.0 hours. Therefore, Plaintiff estimated Tropical Plaza's maximum exposure for meal period violations at approximately \$170,634 (12,820 non-compliant meal periods * \$13.31

premium). In response, Tropical Plaza argues that it maintained legally-compliant meal period policies throughout the Class Period, and that under *Brinker* it is only required to “provide” the opportunity to take meal periods, not “ensure” meal periods are taken. Tropical Plaza also contends that any short, missed, or late meal periods were the result of lawful employee waiver or choice, thereby precluding liability. Lastly, Tropical Plaza argues that individualized inquiries will be required to determine why each meal period was taken late, short, missed, and whether there was a valid waiver, thereby making certification of this claim unlikely. Tropical Plaza further argues that this claim would not be certified due to the lack of any common evidence tying together the reason that Settlement Class members experienced a meal period violation. Tropical Plaza also argues that the presence of these affirmative defenses as to the voluntariness of a particular meal period decision would preclude class certification. Based on these defenses, Plaintiff discounted the maximum exposure by 40% for the risk of non-certification, and an additional 40% to account for Tropical Plaza’s defenses on the merits, to arrive at an estimated exposure of \$61,429.

18. Plaintiff alleges that Tropical Plaza failed to authorize and permit all off-duty rest periods due to work demands imposed by Tropical Plaza. Based on Plaintiff’s analysis and extrapolation of the timekeeping records, Plaintiff estimated there were approximately 28,725 total shifts over 3.5 hours during the Class Period, that approximately 75% of shifts contained a rest period violation, and thus a potential maximum exposure of \$286,747 on Plaintiff’s rest period claim ($\$13.31 \text{ premium} \times 28,725 \text{ shifts} \times 75\% \text{ violation rate}$). Tropical Plaza contends its written rest period policies are legally compliant, and that it has always authorized and permitted employees at least 10-minute rest periods for each four (4) hours worked, or major fraction thereof. Any failure to take rest periods was a result of employee choice, Tropical Plaza argues, rather than any Tropical Plaza policy or practice. Tropical Plaza further argues that Plaintiff’s rest period claim is not amenable to class treatment, since individual inquiries would be required to determine which employees failed to take rest periods, how many rest periods they failed to take, and the reasons why each employee failed to take rest period(s) on a particular shift. These manageability concerns are especially present with respect to rest periods, Tropical Plaza argues,

1 since rest periods are not recorded. Plaintiffs therefore discounted this maximum amount by 45%
2 for risk of non-certification and an additional 50% for a risk of being unsuccessful on the merits
3 or of failing to recover the full amount sought, to arrive at an estimated realistic exposure of
4 \$78,855.

5 19. As a result of the unpaid wages and meal and rest period premium wages described
6 above, Plaintiff alleges that Tropical Plaza failed to comply with its final pay obligations set forth
7 in Labor Code §§ 201-203. Based on an average hourly rate of \$13.31, Plaintiff estimated the
8 average waiting penalty per former employee to be \$3,194 (\$13.31 avg. rate of pay * 8 hours per
9 day * 30 days). Therefore, Plaintiff calculated Tropical Plaza maximum exposure for waiting time
10 penalties at approximately \$290,654 (91 former employees * \$3,194 waiting time penalty).
11 Tropical Plaza maintains that it possesses strong, good faith defenses to Plaintiff's underlying
12 claims, thus precluding recovery of waiting time penalties, which are only available for the
13 "willful" failure to pay wages. Tropical Plaza further argues that waiting time penalties are not
14 recoverable at all for alleged meal and rest period violations. To account for Tropical Plaza's
15 defenses, Plaintiff discounted the maximum exposure by 35% for the risk of non-certification,
16 and an additional 55% for risk of losing on the merits, and/or not receiving the maximum penalties
17 sought, to arrive at an estimated exposure of \$85,017.

18 20. As a further result of the unpaid wages and meal and rest period premium wages,
19 Plaintiff alleges that Tropical Plaza is liable for wage statement penalties. Tropical Plaza's data
20 revealed there were approximately 92 unique employees and approximately 1,371 pay periods
21 during the applicable time period. Therefore, Plaintiff calculated Tropical Plaza's maximum
22 exposure for wage statement violations at \$132,500 (92 initial violations * \$50 for initial penalty
23 = \$4,600) + (1,279 subsequent violations * \$100 subsequent violation penalty = \$127,900).
24 Tropical Plaza maintains that any alleged wage statement violations were not "knowing and
25 intentional," and Plaintiff cannot show he or other employees "suffer[ed] injury" due to the
26 alleged wage statement violations, as required by Labor Code Section 226(e) for the imposition
27 of penalties. Tropical Plaza further argues wage statements always accurately reflected hours
28 worked and amounts paid to employees, and thus Tropical Plaza could not be found liable for

1 wage statement penalties per *Maldonado v. Epsilon Plastics, Inc.* Tropical Plaza further argues
2 that meal and rest period violations cannot serve as a basis for wage statement penalties. In light
3 of these defenses, Plaintiff discounted the calculated maximum exposure by 35% for a risk of
4 non-certification, and an additional 50% for a risk of being unsuccessful on the merits, to arrive
5 at an estimated total of \$43,063.

6 21. Based on the foregoing Labor Code violations, Plaintiff alleges that Tropical Plaza
7 is liable for penalties under the PAGA. Plaintiff estimated a maximum total PAGA exposure at
8 \$137,100 for the relevant time period (1,371 pay periods * \$100 initial penalty). However, these
9 penalties derive from the underlying wage and hour violations discussed above, which Tropical
10 Plaza vigorously disputes. As a result, Tropical Plaza argues that Plaintiff's PAGA claim would
11 fail with Plaintiff's underlying claims. Tropical Plaza contends that, given its good faith defenses,
12 this Court would exercise its discretion to substantially reduce any PAGA penalties if it were to
13 find Tropical Plaza liable for any of Plaintiff's claims. Therefore, Plaintiff discounted the
14 maximum figure by 50% for risk of losing on the merits, and an additional 50% to account for
15 the possibility of this Court reducing penalties, to arrive at an estimated exposure of \$34,275.

16 22. Using these estimated figures for each of the claims described above, Plaintiff
17 predicted that the potential recovery for the Settlement Class would be approximately \$439,625.
18 The proposed settlement of \$400,000 therefore represents approximately 90.9% of the reasonably
19 forecasted recovery for the Settlement Class.

20 23. Class Counsel will apply for an attorneys' fees award of one-third of the GSA,
21 which is currently estimated to be \$133,333.33, and up to \$20,000.00 in verified costs
22 reimbursement. Plaintiff submits the requested fee is fair compensation for undertaking complex,
23 risky, expensive, and time-consuming litigation on a purely contingent fee basis. Class Counsel
24 has incurred substantial attorneys' fees conducting pre-filing investigation, analyzing Plaintiff's
25 claims, conducting legal research, engaging in informal discovery, working to develop a
26 comprehensive damages model, preparing for and attending mediation, negotiating and preparing
27 the long-form Settlement, preparing this Motion, and otherwise litigating the case. Class Counsel
28 expect to expend additional attorney time in attending the hearing on this Motion, overseeing the

1 Notice process and fielding questions from Settlement Class members, preparing the final
2 approval papers, and attending the Final Approval hearing.

3 24. Although the parties engaged in significant informal discovery in advance of
4 mediation, the parties still had significant discovery to complete in formal litigation had the matter
5 not settled. This would have required expenditure of substantial time and resources by both parties
6 that would have very likely spanned several years. Plaintiff also still had to file for class
7 certification, and faced the prospect of appeals in the wake of a disputed class certification ruling
8 and/or summary judgment ruling. Even if Plaintiff obtained class certification, the parties would
9 incur considerably more attorneys' fees and costs through a possible decertification motion, trial,
10 and possible appeal. This Settlement avoids those risks and the accompanying expense.

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

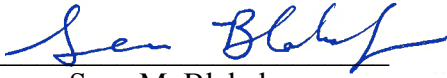
13 
14 Sean M. Blakely

EXHIBIT A

STIPULATION OF SETTLEMENT

This Stipulation of Settlement (“Settlement Agreement”) is reached by and between Plaintiff Manuel Chavez (“Plaintiff”), individually and on behalf of all members of the Settlement Class (defined below), on one hand, and Defendant Tropical Plaza Nursery, Inc. (hereinafter “Defendant”), on the other hand. Plaintiff and Defendant are referred to herein collectively as the “Parties.” Plaintiff and the Settlement Class are represented by Paul K. Haines and Sean M. Blakely of Haines Law Group, APC (“Class Counsel”). Defendant is represented by Brian A. Selvan of Walraven & Westerfeld, LLP.

On January 9, 2020, Plaintiff filed a Class Action Complaint against Defendant in Orange County Superior Court, in the matter entitled *Manuel Chavez v. Tropical Plaza Nursery, Inc.*, Case No. 30-2020-01122820-CU-OE-CXC (the “Action”). On May 26, 2020, Plaintiff filed the operative First Amended Class and Representative Action Complaint (“FAC”). The FAC alleges the following causes of action: (i) failure to pay all overtime wages; (ii) minimum wage violations; (iii) rest period violations; (iv) meal period violations; (v) wage statement penalties; (vi) waiting time penalties; (vii) unfair competitions; and (viii) civil penalties under the Private Attorneys General Act (“PAGA”).

Given the uncertainty of litigation, Plaintiff and Defendant wish to settle both individually and on behalf of the Settlement Class. Accordingly, Plaintiff and Defendant agree as follows:

1. **Settlement Class.** For the purposes of this Settlement Agreement only, Plaintiff and Defendant stipulate to the certification of the following Settlement Class:

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 the date of preliminary approval of the settlement (“Class Period”).

The Parties agree that certification for purposes of settlement is not an admission that class certification is proper under Section 382 of the Code of Civil Procedure. If for any reason this Settlement Agreement is not approved, does not become Final as defined below, or is terminated or materially modified without agreement of the parties, in whole or in part, this conditional agreement to class certification will be inadmissible and will have no effect in this matter or in any claims brought on the same or similar allegations, and the Parties shall revert to the respective positions they held prior to entering into the Settlement Agreement.

2. **Release by Settlement Class Members and Plaintiff.** Upon the complete funding of the Gross Settlement Amount, Plaintiff and every member of the Settlement Class (except those who opt out) will fully release and discharge Defendant, 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”), as follows:

- A. Settlement Class members will release 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. Notwithstanding the foregoing, the PAGA settlement and release provisions outlined in subsection (h) will apply to all Settlement Class members whether or not they exclude themselves from the class action settlement. Settlement Class members who were employed by Defendant at any time from January 9, 2019 through the date of preliminary approval of this Settlement and submit a valid and timely Request for Exclusion shall still be entitled to their portion of the PAGA Amount described below, and will release 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 of relief pled in the FAC, whether they submit a valid and timely Request for Exclusion or not.

3. **Gross Settlement Amount.** As consideration and subject to the express condition precedent that this Settlement Agreement becomes Final (as defined below), Defendant agrees to pay a non-reversionary “Gross Settlement Amount” of Four Hundred Thousand Dollars and Zero Cents (\$400,000.00) in full and complete settlement of the Action, as follows:

- A. The Parties have agreed to engage Phoenix Settlement Administrators as the “Settlement Administrator” to administer this Settlement.
- B. The term “Final” and “Final Effective Date” means: (i) that the Settlement Agreement has received Final Approval by the Court and there were no timely objections or intervener requests filed, or that any timely objections and/or interveners have been withdrawn; or, (ii) in the event that one or more timely objections or interventions has/have been filed and not withdrawn, then upon the passage of the applicable date for an objector or intervener to seek appellate review of the Court’s order of Final Approval, without a timely appeal having been filed; or, (iii) in the event that a timely appeal of the Court’s order of Final Approval has been filed, then the Settlement Agreement shall be final when the applicable appellate court has rendered a final decision or opinion affirming the Court’s Final

Approval without material modification, and the applicable date for seeking further appellate review has passed, or the date that any such appeal has been either dismissed or withdrawn by the appellant.

- C. The Gross Settlement Amount shall be deposited with the Settlement Administrator within fifteen (15) business days of the Final Effective Date.
- D. This is a non-reversionary settlement. The Gross Settlement Amount includes:
 - (1) All payments (including interest) to the Settlement Class;
 - (2) All costs of the Settlement Administrator and settlement administration, which are anticipated to be no greater than Ten Thousand Dollars and Zero Cents (\$10,000.00);
 - (3) Up to Five Thousand Dollars and Zero Cents (\$5,000.00) for Plaintiff's Class Representative Enhancement Payment in recognition of his contributions to the Action and his service to the Settlement Class. If Plaintiff's request for his enhancement payment is not approved and/or reduced by the Court, any amount not approved and/or reduced by the Court will revert to the participating Settlement Class members;
 - (4) Up to one-third of the Gross Settlement Amount in Class Counsel's attorneys' fees, plus actual costs and expenses incurred by Class Counsel related to the Action as supported by declaration, which are currently estimated to be no greater than Twenty Thousand Dollars and Zero Cents (\$20,000.00). If Class Counsel's request for attorneys' fees and/or reimbursement of litigation costs is not approved and/or reduced by the Court, any amount not approved and/or reduced by the Court will revert to the participating Settlement Class members; and
 - (5) Twenty Thousand Dollars and Zero Cents (\$20,000.00) of the Gross Settlement Amount has been set aside by the Parties as PAGA civil penalties. Per Labor Code § 2699(i), seventy-five percent (75%) of such penalties, or Fifteen Thousand Dollars and Zero Cents (\$15,000.00) will be payable to the Labor & Workforce Development Agency ("LWDA"), and the remaining twenty-five percent (25%), or Five Thousand Dollars and Zero Cents (\$5,000.00) will be payable to the Settlement Class as the "PAGA Amount."
- D. Defendant's share of payroll taxes shall be paid by Defendant separately from, and in addition to, the Gross Settlement Amount.
- E. **Escalator Clause.** Defendant represents there are approximately 5,128 workweeks worked by Settlement Class members during the Class Period. If the number of workweeks worked by Settlement Class members during the Class Period is more than 10% greater than this figure (i.e., if there are 5,641 or more workweeks worked by Settlement Class members), Defendant agrees to increase the Gross Settlement

Amount on a proportional basis (i.e., if the actual number of workweeks were 20% greater than 5,128, Defendant would agree to increase the Gross Settlement Amount by 20%).

4. **Payments to the Settlement Class.** Settlement Class members are not required to submit a claim form to receive a payment (“Settlement Award”) from the Settlement. Settlement Awards will be determined and paid as follows:

- A. The Settlement Administrator shall first deduct from the Gross Settlement Amount the amounts approved by the Court for Class Counsel’s attorneys’ fees, Class Counsel’s costs and expenses, Plaintiff’s Class Representative enhancement payment, the LWDA’s share of the PAGA payment, and the Settlement Administrator’s fees and expenses for administration. The remaining amount shall be known as the “Net Settlement Amount.”
- B. From the Net Settlement Amount, the Settlement Administrator will calculate each Settlement Class member’s Settlement Award based on the following formula:
 - i. Payments to all participating Settlement Class members: Eighty-Five percent (85%) of the Net Settlement Amount will be distributed to all participating Settlement Class members based on each participating Settlement Class member’s proportionate Workweeks worked during the Class Period, and will be calculated by multiplying 85% of the Net Settlement Amount by a fraction, the numerator of which is the participating Settlement Class member’s number of Workweeks worked during the Class Period, and the denominator of which is the total Workweeks worked by all participating Settlement Class members during the Class Period.
 - ii. Waiting Time Amount: Ten Percent (10%) of the Net Settlement Amount shall be designated as the “Waiting Time Amount.” Each participating Settlement Class member whose employment with Defendant ended at any time from January 9, 2017 to the date of preliminary approval, shall receive an equal, pro-rata share of the Waiting Time Amount. In other words, the Waiting Time Amount will be divided equally among all participating Settlement Class members whose employment with Defendant ended at any time from January 9, 2017 to the date of preliminary approval.
 - iii. Wage Statement Amount: Five percent (5%) of the Net Settlement Amount shall be designated as the “Wage Statement Amount.” Each participating Settlement Class member who was employed by Defendant at any time from January 9, 2019 to the date of preliminary approval shall receive a portion of the Wage Statement Amount proportionate to the number of Workweeks that he or she worked during the period from January 9, 2019 to the date of preliminary approval, and which will be calculated by multiplying 5% of the Net Settlement Amount by a fraction, the numerator of which is the participating Settlement Class member’s number of Workweeks worked from January 9, 2019 to the date of preliminary

approval, and the denominator of which is the total number of Workweeks worked by all participating Settlement Class members during the time period from January 9, 2019 to the date of preliminary approval.

- iv. PAGA Amount: Each participating Settlement Class member who was employed by Defendant at any time from January 9, 2019 to the date of preliminary approval (including those who submit a valid and timely Request for Exclusion from the class action settlement) shall receive a portion of the Five Thousand Dollars and Zero Cents (\$5,000.00) of the Gross Settlement Amount that has been designated as the “PAGA Amount” proportionate to the number of Workweeks that he or she worked during the period from January 9, 2019 to the date of preliminary approval, and which will be calculated by multiplying the PAGA Amount by a fraction, the numerator of which is the participating Settlement Class member’s number of Workweeks worked from January 9, 2019 to the date of preliminary approval, and the denominator of which is the total number of Workweeks worked by all participating Settlement Class members from January 9, 2019 to the date of preliminary approval (including those who submit a valid and timely Request for Exclusion from the class action settlement).
- C. Within ten (10) calendar days following Defendant’s deposit of the Gross Settlement Amount with the Settlement Administrator, the Settlement Administrator will calculate Settlement Award amounts and provide the same to counsel for review and approval. Within seven (7) calendar days of approval by counsel, the Settlement Administrator will prepare and mail Settlement Awards, less applicable taxes and withholdings, to participating Settlement Class members. The Settlement Administrator shall simultaneously pay the withholdings to the applicable authorities with the necessary reports, submitting copies to Defendant’s counsel.
- D. For purposes of calculating applicable taxes and withholdings, each Settlement Award shall be allocated as follows: 80% as penalties and interest; and 20% as wages. The Settlement Administrator will be responsible for issuing to participating Settlement Class members IRS Forms W-2 for amounts deemed “wages” and IRS Forms 1099 for the amounts allocated as penalties and interest. Notwithstanding the treatment of the payments to each Settlement Class member above, none of the payments called for by this Settlement Agreement, including the wage portion, are to be treated as earnings, wages, pay or compensation for any purpose of any applicable benefit or retirement plan, unless required by such plans.
- E. Each Settlement Class member who receives a Settlement Award must cash that check within 180 days from the date the Settlement Administrator mails it. Any funds payable to Settlement Class members whose checks were not cashed within 180 days after mailing will escheat to the State Controller to be deposited in the Unclaimed Property Fund for the benefit of the Settlement Class member whose check was not cashed.

- F. Neither Plaintiff nor Defendant shall bear any liability for lost or stolen checks, forged signatures on checks, or unauthorized negotiation of checks. Unless responsible by its own acts of omission or commission, the same is true for the Settlement Administrator.

5. **Attorneys' Fees and Costs.** Defendant will not object to Class Counsel's request for a total award of attorneys' fees of one-third of the Gross Settlement Amount, which is currently estimated to be One Hundred Thirty-Three Thousand Three Hundred Thirty-Three Dollars and Thirty-Three Cents (\$133,333.33). Additionally, Class Counsel will request an award of actual costs and expenses as supported by declaration, in an amount not to exceed Twenty Thousand Dollars and Zero Cents (\$20,000.00), from the Gross Settlement Amount. These amounts will cover any and all work performed and any and all costs incurred in connection with this litigation, including without limitation: all work performed and all costs incurred to date; and all work to be performed and costs to be incurred in connection with obtaining the Court's approval of this Settlement Agreement, including any objections raised and any appeals necessitated by those objections. Class Counsel will be issued an IRS Form 1099 by the Settlement Administrator when the Settlement Administrator pays the fee award allowed by the Court.

6. **Class Representative Enhancement Payment.** Defendant will not object to a request for a Class Representative Enhancement Payment of up to Five Thousand Dollars and Zero Cents (\$5,000.00) to Plaintiff for his time and risk in prosecuting this case, and his service to the Settlement Class. This payment will be in addition to Plaintiff's Settlement Award as a Settlement Class member and shall be reported on an IRS Form 1099 issued by the Settlement Administrator.

7. **Settlement Administrator.** Defendant will not object to the appointment of Phoenix Settlement Administrators as Settlement Administrator. Defendant will not object to Plaintiff seeking permission to pay up to Ten Thousand Dollars and Zero Cents (\$10,000.00) for its services from the Gross Settlement Amount. The Settlement Administrator shall be responsible for sending notices and for calculating Settlement Awards and preparing all checks and mailings, calculating Defendant's share of taxes payable on the wages, and other duties as described in this Settlement Agreement. The Settlement Administrator shall be authorized to pay itself from the Gross Settlement Amount by Class Counsel only after Settlement Awards have been mailed to all participating Settlement Class members. The Settlement Administrator shall also give notice of final judgment by posting the final judgment to its website.

8. **Preliminary Approval.** Within a reasonable time after execution of this Settlement Agreement by the Parties, Plaintiff shall apply to the Court for the entry of an Order:

- A. Conditionally certifying the Settlement Class for purposes of this Settlement Agreement;
- B. Appointing Paul K. Haines and Sean M. Blakely of Haines Law Group, APC as Class Counsel;
- C. Appointing Manuel Chavez as Class Representative for the Settlement Class;
- D. Approving Phoenix Settlement Administrators as Settlement Administrator;

- E. Preliminarily approving this Settlement Agreement and its terms as fair, reasonable, and adequate;
 - F. Approving the form and content of the Notice Packet (which is comprised of the Class Notice, Request for Exclusion Form, and Notice of Estimated Settlement Award), and directing the mailing of same; and
 - G. Scheduling a Final Approval hearing.
9. **Notice to Settlement Class.** Following preliminary approval, the Settlement Class shall be notified as follows:
- A. Within ten (10) business days after entry of an order preliminarily approving this Agreement, Defendant will provide the Settlement Administrator with the names, last known addresses, phone numbers, social security numbers, the dates of employment and the number of Workweeks worked by each Settlement Class member while employed during the Class Period (the "Class Data"). The Class Data shall be provided to the Settlement Administrator in an electronic format reasonably satisfactory to the Settlement Administrator.
 - B. Within ten (10) business days from receipt of the information provided for in Paragraph 9(A), the Settlement Administrator shall: (i) run the names of all Settlement Class members through the National Change of Address ("NCOA") database to determine any updated addresses for Settlement Class members; (ii) update the address of any Settlement Class member for whom an updated address was found through the NCOA search; (iii) calculate the estimated Settlement Award for each Settlement Class member; and (iv) mail a Notice Packet to each Settlement Class member at his or her last known address or at the updated address found through the NCOA search, and retain proof of mailing.
 - C. Requests for Exclusion. Any Settlement Class member who wishes to opt-out of the settlement must complete and mail a Request for Exclusion Form to the Settlement Administrator within sixty (60) calendar days of the date of the initial mailing of the Notice Packets (the "Response Deadline").
 - i. The Notice Packet shall state that a Settlement Class member who wishes to exclude themselves from the Settlement must submit a Request for Exclusion Form by the Response Deadline. The Request for Exclusion Form must: (1) contain the name, address, telephone number and the last four digits of the Social Security number of the Settlement Class member; (2) contain a statement that the Settlement Class member wishes to be excluded from the Settlement; (3) be signed by the Settlement Class member; and (4) be postmarked by the Response Deadline and mailed to the Settlement Administrator at the address specified in the Class Notice. If the Request for Exclusion Form does not contain the information listed in (1)-(3), it will not be deemed valid for exclusion from the Settlement, except a Request for Exclusion Form not containing a Settlement Class member's telephone number and/or last four

digits of the Social Security number will be deemed valid. The date of the postmark on the Request for Exclusion Form shall be the exclusive means used to determine whether a Request for Exclusion has been timely submitted. Any Settlement Class member who requests to be excluded from the Settlement Class will not be entitled to any recovery under this Settlement Agreement and will not be bound by the terms of the Settlement or have any right to object, appeal or comment thereon. Notwithstanding the foregoing, the PAGA settlement and release provisions will apply to all Settlement Class members whether or not they exclude themselves from the class action settlement. Settlement Class members who were employed by Defendant at any time from January 9, 2019 through the date of preliminary approval of this Settlement and submit a valid and timely Request for Exclusion shall still be entitled to their portion of the PAGA Amount described above, and will release 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 of relief pled in the FAC, whether they submit a valid and timely Request for Exclusion or not.

- ii. At no time will the Parties or their counsel seek to solicit or otherwise encourage any Settlement Class member to object to the Settlement or opt out of the Settlement Class or encourage any Settlement Class member to appeal from the final judgment.
- iii. Notwithstanding any other provisions of this Agreement, in the event that ten percent (10%) or more of the total Settlement Class members opt out of the settlement, Defendant shall have the right, in its sole discretion, to nullify the settlement within ten (10) days after expiration of the opt-out period by providing written notice to Plaintiff's Counsel. In the event that Defendant exercises this right, the Parties' conditional agreement to class certification will be inadmissible and will have no effect in this matter or in any claims brought on the same or similar allegations, and the Parties shall revert to the respective positions they held prior to entering into the Settlement Agreement

- D. Objections. Settlement Class members who do not request exclusion may object to this Settlement Agreement as explained in the Class Notice by filing a written objection with the Settlement Administrator (who shall serve all objections as received on Class Counsel and Defendant's counsel, as well as file all such objections with the Court). Defendant's counsel and Class Counsel shall file any responses to objections no later than the deadline to file the Motion for Final Approval, unless the objections are filed within ten (10) days of the Motion for Final Approval filing deadline, in which case Defendant's counsel and Class Counsel shall have ten (10) days to file a response to the objections. To be valid, any objection should: (1) contain the objecting Settlement Class member's full name and current address, as well as contact information for any attorney representing the objecting Settlement Class member for purposes of the objection; (2) include all objections and the factual and legal bases for same; (3) include any

and all supporting papers, briefs, written evidence, declarations, and/or other evidence; and (4) be postmarked no later than the Response Deadline. Settlement Class members may also appear at the final approval hearing to orally object, even if they have not submitted a written objection.

- E. Notice of Estimated Settlement Award / Disputes. Each Notice Packet mailed to a Settlement Class member shall disclose the amount of the Settlement Class member's estimated Settlement Award as well as all of the information that was used from Defendant's records in order to calculate the Settlement Award, including the Settlement Class member's number of Workweeks worked during the Class Period, whether the Settlement Class member's employment with Defendant ended during the time period of January 9, 2017 to the date of preliminary approval, and the number of workweeks worked from January 9, 2019 to the date of preliminary approval. Settlement Class members will have the opportunity, should they disagree with Defendant's records regarding the information stated in the Notice of Estimated Settlement Award, to provide documentation and/or an explanation to show contrary information. Any such dispute, including any supporting documentation, must be mailed to the Settlement Administrator and postmarked by the Response Deadline. If there is a dispute, the Settlement Administrator will consult with the Parties to determine whether an adjustment is warranted. The Settlement Administrator shall determine the eligibility for, and the amounts of, any Settlement Awards under the terms of this Settlement Agreement. The Settlement Administrator's determination of the eligibility for and amount of any Settlement Award shall be binding upon the Settlement Class member and the Parties.
- F. Any Notice Packets returned to the Settlement Administrator as non-delivered on or before the Response Deadline shall be re-mailed to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator shall make reasonable efforts, including utilizing a "skip trace," to obtain an updated mailing address within five (5) business days of receiving the returned Notice Packet. If an updated mailing address is identified, the Settlement Administrator shall resend the Notice Packet to the Settlement Class member immediately, and in any event within three (3) business days of obtaining the updated address. The address identified by the Settlement Administrator as the current mailing address shall be presumed to be the best mailing address for each Settlement Class member. It will be conclusively presumed that, if an envelope so mailed has not been returned within thirty (30) days of the mailing, the Settlement Class member received the Notice Packet. Settlement Class members to whom Notice Packets are re-mailed after having been returned as undeliverable to the Settlement Administrator shall have fourteen (14) calendar days from the date of re-mailing, or until the Response Deadline has expired, whichever is later, to submit a Request for Exclusion, Objection, or dispute. Notice Packets that are re-mailed shall inform the recipient of this adjusted deadline. If a Settlement Class member's Notice Packet is returned to the Settlement Administrator more than once as non-deliverable, then an additional Notice Packet shall not be mailed. Nothing else shall

be required of, or done by, the Parties, Class Counsel, or Defendant's Counsel to provide notice of the proposed settlement.

10. **Final Approval.** Following preliminary approval and the close of the period for filing requests for exclusion, objections, or disputes under this Settlement Agreement, Plaintiff shall apply to the Court for entry of an Order:

- A. Granting final approval to the Settlement Agreement and adjudging its terms to be fair, reasonable, and adequate;
- B. Approving Plaintiff's and Class Counsel's application for attorneys' fees and costs, Class Representative enhancement payment, LWDA payment, and settlement administration costs; and
- C. Entering judgment pursuant to California Rule of Court 3.769. Said judgment shall be posted on the website of the Settlement Administrator.

11. **Non-Admission of Liability.** Nothing in this Settlement Agreement shall operate or be construed as an admission of any liability or that class certification is appropriate in any context other than this Settlement. Each of the Parties has entered into this Settlement Agreement to avoid the burden and expense of further litigation. Pursuant to California Evidence Code Section 1152, this Settlement Agreement is inadmissible in any proceeding, except a proceeding to approve, interpret, or enforce this Settlement Agreement. If Final Approval does not occur, the Parties agree that this Settlement Agreement is void, but remains protected by California Evidence Code Section 1152.

12. **Non-disclosure and Non-publication.** Plaintiff and Class Counsel agree that they have not and will not publish the Settlement Agreement, except to Settlement Class members and as shall be contractually required to effectuate the terms of the Settlement Agreement as set forth herein. Class Counsel shall not report the Settlement Agreement in any medium or in any publication, shall not post or report anything regarding the claims of Plaintiff, the Settlement Class, or the Settlement on their website, and shall not contact any reporters or media regarding the Settlement. However, for the limited purpose of allowing Class Counsel to prove adequacy as class counsel in other actions, Class Counsel may disclose the names of the Parties in this Action, the venue/case number of this Action, and a general description of the Action, to a court in a declaration by Class Counsel.

13. **Waiver and Amendment.** The Parties may not waive, amend, or modify any provision of this Settlement Agreement except by a written agreement signed by all of the Parties, and subject to any necessary Court approval. A waiver or amendment of any provision of this Settlement Agreement will not constitute a waiver of any other provision.

14. **Notices.** All notices, demands, and other communications to be provided concerning this Settlement Agreement shall be in writing and delivered by receipted delivery and by e-mail at the addresses set forth below, or such other addresses as either Party may designate in writing from time to time:

if to Defendant: Brian A. Selvan, Walraven & Westerfeld LLP, 20 Enterprise, Suite 310, Aliso Viejo, California 92656; bselvan@walravenlaw.com

if to Plaintiff: Paul K. Haines, Haines Law Group, APC, 2155 Campus Drive, Suite 180, El Segundo, California 90245; phaines@haineslawgroup.com.

15. **Entire Agreement.** This Settlement Agreement contains the entire agreement between the Parties with respect to the transactions contemplated hereby, and supersedes all negotiations, presentations, warranties, commitments, offers, contracts, and writings prior to the date hereof relating to the subject matters hereof.

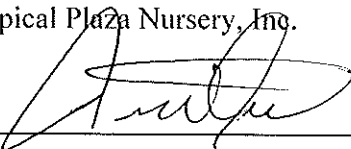
16. **Counterparts.** This Settlement Agreement may be executed by one or more of the Parties on any number of separate counterparts and delivered electronically, and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

17. **Enforcement and Continuing Jurisdiction of the Court.** To the extent consistent with class action procedure, this Settlement Agreement shall be enforceable by the Court pursuant to California Code of Civil Procedure section 664.6. The Court shall retain continuing jurisdiction over this Lawsuit and over all Parties and Settlement Class members, to the fullest extent to enforce and effectuate the terms and intent of this Settlement Agreement, and to adjudicate any claimed breaches of this Settlement Agreement. In the event that one more of the Parties institutes any legal action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement or to declare rights and/or obligations under this Settlement, the successful Party or Parties will be entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any enforcement actions.

[SIGNATURES ON FOLLOWING PAGE]

DATED:

Tropical Plaza Nursery, Inc.

By: _____

DATED:

Manuel Chavez

By: _____
Plaintiff and Settlement Class Representative

APPROVED AS TO FORM:

DATED:

WALRAVEN & WESTERFELD, LLP

By: _____

Brian Selvan
Attorneys for Defendant

DATED:

HAINES LAW GROUP, APC

By: _____

Paul K. Haines
Sean M. Blakely
Attorneys for Plaintiff

DATED:

Tropical Plaza Nursery, Inc.

By: _____

DATED:

Feb 18, 2021

Manuel Chavez

By: *Manuel Chavez*
Manuel Chavez (Feb 18, 2021 14:14 PST)
Plaintiff and Settlement Class Representative

APPROVED AS TO FORM:

DATED:

WALRAVEN & WESTERFELD, LLP

By: _____
Brian Selvan
Attorneys for Defendant

DATED:

HAINES LAW GROUP, APC

By: *Sean Blakely*
Paul K. Haines
Sean M. Blakely
Attorneys for Plaintiff

EXHIBIT 1

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 \$10,000.00 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. Notwithstanding the foregoing, the PAGA settlement and release provisions outlined in subsection (h) will apply to all Settlement Class members whether or not they exclude themselves from the class action settlement. Settlement Class members who were employed by Defendant at any time from January 9, 2019 through the date of preliminary approval of this Settlement and submit a valid and timely Request for Exclusion shall still be entitled to their portion of the PAGA Amount described above, and will release 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 of relief pled in the FAC, whether they submit a valid and timely Request for Exclusion or not.

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’s decision regarding any dispute will be final.

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, 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>>** 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>>**, 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 2

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 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 the Parties and the Settlement Administrator as described in the "Notice of Pendency of Class Action and Proposed Settlement" that accompanies this Form.

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

EXHIBIT 3

REQUEST FOR EXCLUSION FORM

Manuel Chavez v. Tropical Plaza Nursery, Inc.
Orange County Superior Court
Case No. 30-2020-01122820-CU-OE-CXC

IF YOU **DO NOT** WISH TO BE PART OF THE CLASS ACTION SETTLEMENT, YOU MUST **COMPLETE**, **SIGN** AND **MAIL** THIS FORM, POSTMARKED ON OR BEFORE **[INSERT DATE]**, ADDRESSED AS FOLLOWS:

PHOENIX SETTLEMENT ADMINISTRATORS
MANUEL CHAVEZ V. TROPICAL PLAZA NURSERY, INC.
SETTLEMENT ADMINISTRATOR

ADDRESS
ADDRESS
PHONE
FAX

DO NOT SUBMIT THIS FORM IF YOU WISH TO RECEIVE A PAYMENT UNDER THE SETTLEMENT.

By signing, filling out, and returning this form, I confirm that I **do not** want to be included in the Settlement of the lawsuit entitled *Manuel Chavez v. Tropical Plaza Nursery, Inc.*, Orange County Superior Court Case No. 30-2020-01122820-CU-OE-CXC.

I WISH TO BE EXCLUDED FROM THE SETTLEMENT CLASS IN THE *MANUEL CHAVEZ V. TROPICAL PLAZA NURSERY, INC.* LAWSUIT. I UNDERSTAND THAT IF I TIMELY SUBMIT THIS REQUEST TO BE EXCLUDED FROM THE SETTLEMENT CLASS, I WILL NOT RECEIVE ANY MONEY FROM THE SETTLEMENT OF THIS LAWSUIT.

Name

Telephone Number

Address

Date

Signature

Last Four Digits of Social Security Number: _____