

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

ARRON STANFIELD, as an individual
and on behalf of all others similarly
situated,

Plaintiffs,

vs.

THE F.A. BARTLETT TREE EXPERT
COMPANY, a Connecticut corporation;
and DOES 1 through 50, inclusive,

Defendants.

Case No.: SCV-265929

[Assigned for all purposes to the Honorable Patrick
M. Broderick, Dept. 16]

**[PROPOSED] ORDER GRANTING
PLAINTIFF'S MOTION FOR FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT**

Date: May 26, 2021

Time: 3:00 p.m.

Dept.: 16

Complaint Filed: January 28, 2020

Trial Date: None Set

1 Named Plaintiff Arron Stanfield and Defendant The F.A. Bartlett Tree Expert Company,
2 Inc. (collectively, the “Parties”) have entered into a Joint Stipulation of Class and Representative
3 Action Settlement (“Settlement Agreement” or “Joint Stipulation”) to settle the above-captioned
4 class and PAGA representative action subject to the Court’s final approval (the “Settlement”).
5 The Settlement provides for the payment of compensation to each Settlement Class Member who
6 does not opt out of the Settlement.

7 **I. BACKGROUND**

8 **A. Procedural History**

9 Plaintiff filed a class and PAGA representative action complaint against Defendant on
10 January 28, 2020 (“Complaint”). Plaintiff alleges that Defendant failed to provide accurate
11 itemized wage statements to putative class members and seeks penalties under the California
12 Private Attorneys General Act. Plaintiff seeks to represent all current and former non-exempt
13 employees of Defendant in the State of California who were paid overtime wages at any time
14 from April 1, 2019 through October 3, 2019.

15 The Parties exchanged informal discovery, and with the assistance of a private mediator,
16 reached an agreement in principle to settle all of Plaintiff’s class and representative action
17 claims. On or about October 22, 2020, the Parties executed the Joint Stipulation setting forth the
18 terms of the Settlement.

19 **B. Investigation in the Class Action**

20 Class Counsel conducted a thorough investigation into the facts of the Lawsuit,
21 including informal discovery pertaining to the putative class size, the number of aggrieved
22 employees, the number of wage statements at issue, and information regarding Defendant’s wage
23 statement policies and practices. Class Counsel is knowledgeable about and has done extensive
24 research with respect to the applicable law and potential defenses to the claims of the Settlement
25 Class.

26 **C. Benefits to Settlement Class Members**

27 Plaintiff has considered the expense, risk, and length of continued proceedings necessary
28 to continue the Lawsuit against Defendant through certification, trial, and any possible appeals.

1 Plaintiff has also considered the uncertainty and risk of the outcome of further litigation,
2 Defendant's opposition to any motion for class certification, and the difficulties and delays
3 inherent in such litigation, including those involved in class certification. Plaintiff is also aware
4 of the burdens of proof necessary to establish liability for the claims asserted in the Lawsuit and
5 Defendant's defenses thereto. Plaintiff has also considered the settlement negotiations conducted
6 by the Parties. Based on the foregoing, Plaintiff has determined that the Settlement set forth in
7 the Stipulation of Settlement is fair, adequate, and reasonable, and is in the best interests of the
8 Settlement Class.

9 **D. Settlement Class**

10 "Settlement Class" means the Class and consists of all current or former non-exempt
11 employees of Defendant in the State of California who were paid overtime wages during the
12 Class Period (April 1, 2019 through October 3, 2019). Members of the Settlement Class are
13 "Settlement Class Members."

14 **E. Settlement Class Released Claims**

15 The Settlement fully releases and discharges the Released Parties from the "Released
16 Claims," which are "(a) any and all claims that could have been brought under the facts and
17 allegations made in the operative Complaint, including claims for violation of Labor Code § 226,
18 that accrued during the Class Period; and (b) any and all claims for penalties under the California
19 Private Attorneys' General Act predicated on the violation of Labor Code § 226 based on the
20 facts as alleged in the operative Complaint that accrued during the Class Period."

21 The "Released Parties" are The F. A. Bartlett Tree Expert Company, Inc. and its
22 respective agents, attorneys, insurers, past, present and future divisions, members, affiliates,
23 predecessors, successors, shareholders, officers, directors, managers, employees, trustees,
24 representatives, administrators, fiduciaries, assigns, subrogees, executors, partners, parents,
25 subsidiaries, privies, and/or any and all persons and/or corporate entities acting by, through,
26 under or in concert with any of them.

27 **F. Defendant's Denials of Wrongdoing**

28 Defendant denies any liability and wrongdoing of any kind associated with the claims

1 alleged in the Lawsuit and believes it has valid defenses to Plaintiff's claims. Defendant further
2 denies that the Lawsuit is appropriate for class treatment for any purpose other than this
3 Settlement. Defendant contends that it has complied at all times with the California Labor Code
4 and the Industrial Welfare Commission Wage Orders. Neither the Joint Stipulation, nor any
5 document referred to or contemplated herein, nor any action taken to carry out the Joint
6 Stipulation, may be construed as, or may be used as an admission, concession, or indication by or
7 against Defendant of any fault, wrongdoing, or liability whatsoever, or of any concession that
8 certification of a class other than for purposes of this Settlement would be appropriate in this or
9 any other case.

10 **G. Operation of the Settlement**

11 Pursuant to the Preliminary Approval Order dated March 16, 2021, this Court
12 conditionally certified the Settlement Class as a class and granted preliminary approval of the
13 Settlement. The Preliminary Approval Order also approved of the proposed forms of Class
14 Notice and procedure for providing notice. The Court entered the Preliminary Approval Order
15 after review and consideration of all of the pleadings filed in connection therewith, and the oral
16 presentations made by counsel at the hearing.

17 In compliance with the Preliminary Approval Order, the Class Notice was sent to all
18 Class Members via first class mail. Furthermore, follow-up mailings were performed for returned
19 Class Notices. The notice procedure was timely completed.

20 This matter is now before the Court on Plaintiff's Motion for Final Approval of Class
21 Action Settlement, including approval of PAGA Payment to the LWDA, Class Representative
22 Enhancement Payment, payment to the Settlement Administrator, and Class Counsel Award of
23 attorneys' fees and costs. The Court has read, heard, and considered all the pleadings and
24 documents submitted, and the presentations made in connection with the Motion for Final
25 Approval and related papers, which came for hearing on May 26, 2021.

26 This Court finds that the Settlement appears to be the product of serious, informed, non-
27 collusive negotiations, has no deficiencies, and does not improperly grant preferential treatment
28 to any individuals. The Court further finds that the Settlement is fair, reasonable, and adequate

1 and that Plaintiff has satisfied the standards for final approval of a class action settlement under
2 California law. Under the provisions of California Code of Civil Procedure section 382 and
3 Federal Rule of Civil Procedure 23, as approved for use by the California state court in *Vasquez*
4 *v. Superior Court*, 4 Cal.3d 800, 821 (1971), the trial court has discretion to certify a class where:

5 [Q]uestions of law or fact common to the members of the class predominate over
6 any questions affecting only individual members, and that a class action is
7 superior to the available methods for the fair and efficient adjudication of the
controversy ... Fed. R. Civ. Proc. 23.

8 Certification of a settlement class is the appropriate judicial device under these circumstances.

9 Based on the foregoing, **IT IS HEREBY ORDERED THAT:**

10 This Court has jurisdiction over the claims of the Settlement Class Members asserted in
11 this proceeding and over all Parties to the Lawsuit.

12 For the reasons set forth in the Preliminary Approval Order and preliminary approval
13 hearing, which are adopted and incorporated herein by reference, this Court finds that the
14 applicable requirements of the California Code of Civil Procedure § 382, and Rule 3.769 of the
15 California Rules of Court have been satisfied with respect to the Settlement Class and the
16 proposed Settlement. The Court hereby makes final its earlier provisional certification of the
17 Settlement Class as a class, as set forth in the Preliminary Approval Order.

18 The Class Notice given to the Settlement Class Members fully and accurately informed
19 the Settlement Class Members of all material elements of the proposed Settlement and of their
20 opportunity to object to or comment thereon; was the best notice practicable under the
21 circumstances; was valid, due and sufficient notice to all Settlement Class Members; and
22 complied fully with the laws of the State of California, the United States Constitution, due
23 process and other applicable law. The Class Notice fairly and adequately described the
24 Settlement and provided Settlement Class Members adequate instructions and a variety of means
25 to obtain additional information. A full opportunity has been afforded to the Settlement Class
26 Members to participate in this hearing, and all Settlement Class Members and other persons
27 wishing to be heard, if any, have been heard. Accordingly, the Court determines that all
28 Settlement Class Members who did not timely and validly submit an Exclusion Form are bound

1 by this Order.

2 Pursuant to California law, the Court hereby grants final approval of the Settlement and
3 finds it reasonable and adequate, and in the best interests of the Settlement Class as a whole.
4 More specifically, the Court finds that the Settlement was reached following a meaningful
5 investigation conducted by Class Counsel; that the Settlement is the result of serious, informed,
6 adversarial, and arm's-length negotiations between the Parties; and that the terms of the
7 Settlement are in all respects fair, adequate, and reasonable. In so finding, the Court has
8 considered all of the evidence presented, including evidence regarding the strength of the
9 Plaintiff's case; the risk, expense, and complexity of the claims presented; the likely duration of
10 further litigation; the amount offered in Settlement; the extent of investigation and discovery
11 completed; and the experience and views of Class Counsel. The Court further has considered the
12 absence of objections to the Settlement by Settlement Class Members, as well as the absence of
13 exclusion letters to the Settlement. Accordingly, the Court hereby directs that the Settlement be
14 affected in accordance with the Stipulation of Settlement and the following terms and conditions.

15 It is hereby ordered that the Settlement Administrator shall pay the Individual Settlement
16 Payments to the Settlement Class Members who did not opt out according to the methodology
17 set forth in the Joint Stipulation.

18 It is hereby ordered that the Settlement Administrator shall pay the Class Representative
19 Enhancement Payment of \$10,000.00 to named Plaintiff Arron Stanfield because the Court finds
20 the Enhancement Payment is fair and reasonable for the work he provided to the Settlement
21 Class Members and in exchange for a general release.

22 It is hereby ordered that the Settlement Administrator shall pay the PAGA Payment of
23 \$7,500.00 to the Labor and Workforce Development Agency and distribute \$2,500.00 pro rata to
24 the Settlement Class to pay all applicable penalties under the California Labor Code's Private
25 Attorneys General Act.

26 It is hereby ordered that the Settlement Administrator, Simpluris, Inc., shall pay itself a
27 payment of \$4,000.00 for the services performed in administering the Settlement.

28 The Court hereby awards \$74,166.66 in attorneys' fees, costs, plus its actual out-of-

1 pocket costs, \$11,465.67 to Class Counsel, Diversity Law Group, P.C. and Polaris Law Group.
2 The Court finds that the requested award is reasonable for a contingency fee in a class and
3 representative action such as this; i.e., one-third of the Gross Settlement Amount of \$222,500.00.
4 In addition, the Court finds that the requested Class Counsel Award is reasonable in light of the
5 lodestar crosscheck. In conjunction with making these findings and doing a lodestar analysis, the
6 Court has determined that the billing rates of Class Counsel are reasonable and commensurate
7 with market rates in Sonoma County and approves those rates. No other costs or fees relief shall
8 be awarded, either against Defendant or the Released Parties, or from the award to the Settlement
9 Class.

10 With this Final Approval of the proposed Settlement, it is hereby ordered that Settlement
11 Class Members and their successors shall conclusively be deemed to have given a release, as set
12 forth in the Joint Stipulation and above, against the Released Parties, and all such Settlement
13 Class Members and their successors shall be permanently enjoined and forever barred from
14 asserting any claim related to this Lawsuit against the Released Parties.

15 Neither the making of the Joint Stipulation nor the entry into the Joint Stipulation
16 constitutes an admission by Defendant, nor is this Order a finding of the validity of any claims in
17 the Complaint or of any other wrongdoing. Further, the Joint Stipulation is not a concession, and
18 shall not be used as an admission of any wrongdoing, fault, or omission of any entity or persons;
19 nor may any action taken to carry out the terms of the Joint Stipulation be construed as an
20 admission or concession by or against Defendant or any related person or entity.

21 **IT IS SO ORDERED.**

22
23 DATED: _____

24 HON. PATRICK M. BRODERICK
25 SUPERIOR COURT OF CALIFORNIA
26
27
28