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10 individually and on behalf of similarly situated employees

11 **SUPERIOR COURT OF CALIFORNIA**
12 **FOR THE COUNTY OF SACRAMENTO**

13 MICHAEL URIBE, individually and on behalf
14 of all other similarly situated employees,

15 Plaintiff,

16 vs.

17 ECOGUARD PEST MANAGEMENT, INC.,
18 a California Corporation; and DOES 1 to 100,
19 inclusive,

20 Defendants.

Case No. 34-2021-00300650

CLASS ACTION

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

Date: February 24, 2023

Time: 9:00 a.m.

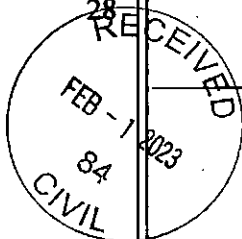
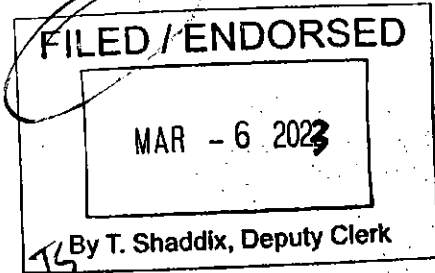
Dept.: 25

Judge: Hon. Jill H. Talley

Filed: May 12, 2021

FAC Filed: August 31, 2021

Trial Date: None Set



[PPSD] ORDER GRANTING FINAL APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT

1 TO ALL PARTIES AND THEIR RESPECTIVE COUNSEL OF RECORD:

2 The Motion for Final Approval of Class Action and PAGA Settlement ("Motion") in the above
3 referenced case came before this Court, on February 24, 2023 at 9:00 a.m., in Department 25 before
4 the Honorable Jill H. Talley, presiding. Named Plaintiff Michael Uribe ("Plaintiff") filed this putative
5 class action on May 12, 2021. The operative Complaint alleges that Defendant EcoGuard Pest
6 Management, Inc. ("Defendant") failed to pay overtime, failed to provide accurate wage statements,
7 failed to timely pay final wages, failed to provide meal and rest periods or pay premiums in lieu
8 thereof, failed to reimburse expenses, failed to provide all paid sick time, engaged in unfair
9 competition, failed to pay contract wages, made unlawful deductions, unlawfully recorded phone calls,
10 and violated Labor Code section 558. Plaintiff has also alleged Defendant is liable for civil penalties
11 under the Private Attorneys General Act ("PAGA") based on these violations. Plaintiff sought
12 attorneys' fees and costs as part of this Action. Defendant denied all of Plaintiff's claims and denied
13 that this case was appropriate for class or representative treatment. No class has been certified. The
14 class action settlement was preliminarily approved by this court on October 31, 2022.

15 The parties have agreed to settle the class and PAGA claims. Defendant will provide monetary
16 consideration in exchange for a release of claims consistent with the terms of the proposed settlement
17 as set forth in the Joint Stipulation Regarding Class Action and PAGA Settlement and Release
18 ("Agreement"). Any capitalized terms herein shall have the same meaning as set forth in the
19 Agreement. The Court, having received and considered Plaintiff's Motion for Final Approval of Class
20 Action and PAGA Settlement, the declarations in support, the Agreement, the Notice of Settlement,
21 and other evidence, HEREBY ORDERS AND MAKES DETERMINATIONS AS FOLLOWS:

22 **I. CERTIFYING A SETTLEMENT CLASS; APPOINTMENT OF CLASS**
23 **REPRESENTATIVES; APPOINTMENT OF CLASS COUNSEL**

24 The Court finds that certification of the following class for settlement purposes only is
25 appropriate under the California Code of Civil Procedure and related case law:

26 All non-exempt employees who have worked, or continue to work, for
27 Defendant in California from May 12, 2017 up to May 2, 2022.
28

1 The Court recognizes that the foregoing definition is for Class Member identification purposes
2 only and is not intended to capture the claims at issue or limit or alter the released claims under the
3 Agreement.

4 The Court finds that Class Members meet the ascertainability and numerosity requirements since
5 the parties can identify with a matter of certainty, based on payroll records, individuals who fall within
6 the definition and the number of Class Members would make joinder impractical. The commonality and
7 predominance requirements are met for settlement purposes since there are questions of law and fact
8 common to Class Members. The common questions of law or fact in this case all stem from Plaintiff's
9 contentions that Defendant caused the violations outlined above by 1) failing to pay Plaintiff, Class
10 Members, and Aggrieved Employees for all hours worked; 2) failing to pay the correct regular rates of
11 pay due to failing to account for the value of commissions, bonuses, and different rates of pay being paid
12 within the same workweek; 3) failing to authorize and permit all meal and rest periods and failing to
13 keep track of whether employees took meal periods; 4) failing to reimburse employees for the use of
14 personal items for work, such as personal cellphones, car washes, and laundering their uniforms; 5)
15 failing to include the correct hourly rates and gross and net wages on wage statements issued to
16 employees; 6) requiring employees to enter into agreements with illegal terms; 7) failing to pay all paid
17 sick time; and 8) failing to notify employees that calls made from the RingCentral app were being
18 recorded. The PAGA, waiting time penalty, wage statement violation, and unfair competition claims
19 also derive from these violations. Additionally, Class Members seek the same remedies under state
20 law. The typicality requirement for settlement purposes is also satisfied since the claims of the Class
21 Representative are based on the same facts and legal theories as those applicable to the class members.

22 The Court also finds that certifying the settlement class is required to avoid each Class Member
23 from litigating similar claims individually. This settlement will achieve economies of scale for Class
24 Members with relatively small individual claims and conserve the resources of the judicial system.

25 The Court finds that Plaintiff Michael Uribe and Plaintiff's counsel, Justin P. Rodriguez and
26 Brittany V. Berzin of Shimoda & Rodriguez Law, PC, to be adequate representatives of the settlement
27 class. The Court appoints them as Class Representative and Class Counsel, respectively.

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1 **II. APPROVING CLASS ACTION AND PAGA SETTLEMENT**

2 The Court has reviewed the Agreement, which was submitted with Plaintiff's Motion as Exhibit

3 A. The Court finds that the Agreement, which includes a total maximum gross payment of \$310,000.00,
4 falls within the range of reasonableness and is fair, reasonable, and adequate for the class. The Court
5 also acknowledges that Class Members were able to object to the settlement through the administration
6 process and at a fairness hearing. No such objections were made by the class members and zero class
7 members opted out of the settlement

8 Because the Court finds the Parties' settlement to have been agreed upon only after an extensive
9 investigation and arms-length negotiations, and in an attempt to avoid further delays and costs, the Court
10 gives final approval to the Agreement and all terms therein as if stated here in full, including the
11 \$310,000 Gross Settlement Amount.

12 The Court approves of the Ten Thousand (\$10,000) PAGA Payment, which shall be paid from
13 the Gross Settlement Amount, not in addition to the Gross Settlement Amount, to resolve the alleged
14 PAGA claims. Seventy-Five percent (75%) of the PAGA Payment will be paid to the Labor and
15 Workforce Development Agency ("LWDA") and Twenty-Five percent (25%) will be paid to Aggrieved
16 Employees on a pro rata basis as described in the Agreement. The Court also finds that the Agreement
17 provides a recovery that creates an effective substantial deterrent to any potential future non-compliance,
18 furthering the purpose of the Labor Code and LWDA

19 Class Counsel sought an award of attorneys' fees of \$108,500.00, attorney's costs of \$7,150.54,
20 an Enhancement Payment to the Class Representative in the amount of \$15,000, and for Claims
21 Administrator Costs in the amount of \$8,000.00. Defendant does not oppose these requests. The Notice
22 of Settlement sent to Class Members included information regarding these amounts and that they would
23 be requested in connection with final approval of the Agreement. Class Members have been given the
24 opportunity to object to these amounts and no objections have been submitted in any respect whatsoever.
25 The Court has reviewed the evidence submitted by Class Counsel regarding their hourly rates, including
26 prior fee awards in Sacramento County Superior Court at the requested rates, and the amount of time
27 expended in the litigation for the benefit of Class Members. The Court finds that the rates requested and
28 hours expended are reasonable. The Court has also reviewed the updated itemized costs submitted by

1 Class Counsel, the information provided by the Class Representative regarding the efforts and burdens
2 undertaken for the benefit of the class, and the cost information provided by the Claims Administrator in
3 its declaration. The Court finds that these amounts requested for attorneys' fees and costs, the
4 Enhancement Payment, and the Claims Administrator Costs are fair and reasonable, and awarded as
5 requested and deducted from the gross settlement amount. This finding is further supported by the lack
6 of objection by Class Members to these amounts. The difference between the actual attorneys costs and
7 Claims Administrator Costs awarded and the originally allocated amounts for each payment will be
8 added to the Net Settlement Amount pursuant to the terms of the Agreement.

9 The Court approves of the identified plan wherein any checks issued to Qualified Claimants
10 and/or Aggrieved Employees that are not cashed by the deadline to do so shall escheat to the State of
11 California Unclaimed Property Fund to be held in the name of each expired check payee, pursuant to
12 applicable unclaimed property laws.

13 The releases and waivers for Class Members who did not opt out of being bound by the
14 Agreement (*i.e.*, Qualified Claimants), Aggrieved Employees, and the Class Representative are also
15 approved by the Court as set forth in the Agreement.

16 **III. APPROVAL OF DISTRIBUTION TO THE CLASS, THE NOTICE OF SETTLEMENT,**
17 **OPPORTUNITY TO OPT OUT OF, AND OBJECT TO, THE SETTLEMENT**

18 The Court finds that the Notice of Settlement, which was submitted with Plaintiff's Motion as
19 Exhibit A to the Declaration of Cassandra Polites, fairly and adequately advises Class Members and
20 Aggrieved Employees of the terms of the Agreement, the rights being waived, their right to opt out, the
21 ability to dispute the number of workweeks worked during the Class Period, their estimated pro rata
22 share of the Net Settlement Amount, how to participate in the settlement, how to file documentation in
23 opposition to the proposed settlement, and when to appear at the fairness hearing. The Court further
24 finds that the Notice of Settlement and distribution of such notice by first class mail to each identified
25 Class Member and Aggrieved Employee at their most recent address based on a National Change of
26 Address database search from the Class Members' last known address and a skip trace on any Class
27 Members who have the Notice of Settlement returned as "undeliverable" or "not at this address"
28 comported with all constitutional requirements, including those of due process.

IV. IMPLEMENTATION SCHEDULE

Accordingly, with good cause shown, the Court hereby approves and orders that the following implementation schedule be adhered to:

Last day for Claims Administrator to calculate the final Net Settlement Amount, the final Claim Amounts for Qualified Claimants and/or Aggrieved Employees, any applicable taxes thereon, and report the results of these calculations to Class Counsel and Defendant's Counsel	Within 7 calendar days after the Effective Date
Last day for Defendant to fund settlement	Within 21 calendar days after the Effective Date
Last day for Claims Administrator to deliver payment of Class Counsel's Attorney's Fees and Costs, Enhancement Payments, PAGA Payment, Claims Administrator Costs, payment to Qualified Claimants, and payment to Aggrieved Employees	Within 7 calendar days after Defendant funds the settlement
Last day for Qualified Members and Aggrieved Employees to cash settlement checks	180 calendar days after issuance of checks to Qualified Members and Aggrieved Employees
Last day for Claims Administrator to deliver value of uncashed settlement checks to the State of California Unclaimed Property Fund	Within 14 calendar days after settlement check cashing deadline
Last day for Claims Administrator to provide Parties with compliance declaration	Within 21 calendar days after settlement check cashing deadline

IT IS FURTHER ORDERED that this final approval order is effective as a judgement with each party to bear its own fees and costs outside of what has been ordered herein. This matter is subject to the

1 Court's continuing jurisdiction to monitor and enforce the terms of this order and the approved
2 Agreement.

3 **IT IS SO ORDERED.**

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5 Date: 3/6/23

6 By:  Jill Talley
7 Judge of the Superior Court

8 JILL H. TALLEY
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