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Attorneys for Plaintiffs

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN JOAQUIN

ADAM LOERA, MIGUEL DIAZ, DAVID
STARR, SUDIPA BISTA, and RICK ZURLO,
individually, on behalf of other members of the
general public similarly situated, and on behalf
of aggrieved employees pursuant to the Private
Attorneys General Act ("PAGA");

Plaintiffs,

v.

TRUGREEN, INC., a Delaware corporation;
TRUGREEN LIMITED PARTNERSHIP, a
Delaware limited partnership; and DOES 1
through 100, inclusive;

Defendants.

Filed **APR 25 2023**
BRANDON E. RILEY, CLERK

By *Alfred Little*
DEPUTY

Case No.: STK-CV-UOE-2022-0005745

Assigned for All Purposes to:
Honorable Barbara Kronlund
Department 10D

CLASS ACTION

~~PROPOSED~~ ORDER OF FINAL
APPROVAL AND JUDGMENT

Hearing Date: April 25, 2023
Hearing Time: 9:00 a.m.
Hearing Place: Department 10D

Complaint Filed: July 11, 2022
FAC Filed: September 1, 2022
Trial Date: None Set

1 The Court, having read the papers filed regarding Plaintiffs Adam Loera, Miguel Diaz,
2 David Starr, Sudipa Bista and Rick Zurlo's ("Plaintiffs") Motion for Final Approval of Class
3 Action Settlement, Attorneys' Fees and Costs, and Class Representative Enhancement Payments,
4 and after considering the papers submitted in support of the motion, including the Joint
5 Stipulation of Class Action Settlement and Release ("Settlement Agreement," "Settlement," or
6 "Agreement"), hereby FINDS AND ORDERS as follows:

7 Plaintiffs and Defendants TruGreen, Inc. and TruGreen Limited Partnership
8 ("Defendants") entered a Settlement on or about August 29, 2022 to settle this lawsuit.

9 The Court entered an Order dated November 8, 2022 preliminarily approving the
10 settlement of this lawsuit ("Preliminary Approval Order"), consistent with the Code of Civil
11 Procedure section 382 and California Rule of Court 3.769, ordering notice to be sent to Class
12 Members, and providing Class Members with an opportunity to object to the Settlement, exclude
13 themselves from the Class, or submit a Claim Form. The Parties scheduled a Final Approval
14 Hearing for April 25, 2023.

15 The Court held a Final Approval Hearing on April 25, 2023.

16 1. Incorporation of Other Documents. This Order of Final Approval and Judgment
17 ("Order and Judgment") incorporates the Settlement Agreement. Unless otherwise provided
18 herein, all capitalized terms in this Order and Judgment shall have the same meaning as set forth
19 in the Settlement Agreement.

20 2. Jurisdiction. Because adequate notice has been disseminated, and all Class
21 Members have been given the opportunity to request exclusion from the Class, the Court has
22 personal jurisdiction with respect to the claims of all Class Members. The Court has subject
23 matter jurisdiction over this matter, including jurisdiction to approve the Settlement, grant final
24 certification of the Class, and dismiss this matter.

25 3. Final Class Certification. The Court finds that the Class satisfies all applicable
26 requirements of Code of Civil Procedure section 382, California Rule of Court 3.769, and due
27 process. Accordingly, the Court certifies a Class consisting of all current and former hourly-paid,
28 non-exempt employees of Defendants within the State of California at any time from January 19,

1 2017 through August 31, 2022 ("Class," "Class Members," and "Class Period"). There are
2 currently two hundred seventy (270) Class Members who submitted timely and valid Claim
3 Forms ("Claimants").

4 4. Adequacy of Representation. Class Counsel have fully and adequately
5 represented the Class for purposes of entering and implementing the Settlement and have
6 satisfied the requirements of Code of Civil Procedure section 382.

7 5. Notice Packet. The Court finds that the Notice of Class Action Settlement and
8 Claim Form (collectively, the "Notice Packet") and its distribution to Class Members have been
9 implemented pursuant to the Agreement and this Court's Preliminary Approval Order and that it:

10 a. constitute notice reasonably calculated, under the circumstances, to
11 apprise Class Members of: (i) pendency of this lawsuit; (ii) material terms and provisions of the
12 Settlement and their rights under the Settlement; (iii) their right to object to any aspect of the
13 Settlement; (iv) their right to exclude themselves from the Class and the Settlement; (v) their
14 right to claim settlement payments by submitting a Claim Form; (vi) their right to appear at the
15 Final Approval Hearing; and (vii) binding effect of the orders and judgment in this lawsuit,
16 whether favorable or unfavorable, on all Class Members who do not request exclusion from the
17 Settlement ("Settlement Class Members");

18 b. constitute notice that fully satisfied the requirements of Code of Civil
19 Procedure section 382, California Rule of Court 3.769, and due process;

20 c. constitute the best practicable notice to Class Members under the
21 circumstances of this lawsuit; and

22 d. constitute notice reasonable, adequate, and sufficient to Class Members.

23 6. Enforcement of Settlement. Nothing in this Order and Judgment shall preclude
24 any action to enforce the terms and provisions of the Settlement Agreement.

25 7. Final Settlement Approval. The terms and provisions of the Settlement
26 Agreement have been entered into good faith and are the product of arm's-length negotiations by
27 experienced counsel who have done a meaningful investigation of the claims in the dispute. The
28 Settlement Agreement and all its terms and provisions are fully and finally approved as fair,

1 reasonable, adequate, and in the best interests of the Parties. The Parties are directed to
2 implement the Settlement Agreement according to its terms and provisions.

3 8. Binding Effect. The terms and provisions of the Agreement and this Order and
4 Judgment are binding on the Settlement Class Members, Private Attorneys General Act of 2004
5 ("PAGA") Aggrieved Employees, as well as their heirs, executors, administrators, successors,
6 and assigns, and those terms shall have res judicata and other preclusive effect in all pending and
7 future claims, lawsuits, or other proceedings maintained by or on behalf of any such persons to
8 the extent those claims, lawsuits, or other proceedings involve matters that were or could have
9 been raised in this lawsuit and are encompassed by the release of the Released Claims and
10 PAGA Released Claims as set forth in the Agreement. The Agreement will have no binding
11 effect upon, and provide no res judicata preclusion to, those Class Members who have submitted
12 Requests for Exclusion.

13 9. Release of Claims by Class Members. Upon the Effective Date, Plaintiffs and all
14 Class Members who have not submitted valid and timely Requests for Exclusion, will be deemed
15 to have fully, finally, and forever released, settled, compromised, relinquished, and discharged
16 with respect to all the Released Parties any and all Released Claims for any period during the
17 Released Claims Period.

18 a. PAGA Released Claims. Upon Defendants' fulfillment of their payment
19 obligations pursuant to the Agreement, in exchange for the consideration provided
20 by the Agreement, Plaintiff, California Labor and Workforce Development
21 Agency ("LWDA"), and any other representative, proxy, or agent thereof,
22 including, but not limited to, any and all PAGA Aggrieved Employees shall
23 release the Released Parties from any and all claims, debts, liabilities, demands,
24 obligations, penalties, premium pay, guarantees, costs, expenses, attorney's fees,
25 damages, actions, or causes of action of whatever kind or nature, whether known
26 or unknown, contingent or accrued, under any legal theory under PAGA that
27 arose or accrued during the PAGA Period and that were or could have been
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1 brought based on the facts or claims alleged in any version of the letters submitted
2 to the LWDA in connection with this matter.

3 b. General Release by Class Representatives. As a condition of the class action
4 settlement, Plaintiffs shall provide a separate general release with respect to the
5 Released Parties. Plaintiffs expressly waive and relinquish any rights or benefits
6 available to them under the provisions of section 1542 of the Civil Code.

7 c. Released Parties. The Released Parties include Defendants, and their
8 predecessors, successors, subsidiaries, parent companies, other corporate
9 affiliates, and assigns, including but not limited to TruGreen, Inc., TruGreen
10 Limited Partnership, and all of their owners, shareholders, members, officers,
11 directors, employees, agents, servants, registered representatives, attorneys,
12 insurers, reinsurers, trustees, successors and assigns, any other persons acting by,
13 through, under, or in concert with any of them, and any entities with whom
14 Defendants shared a Joint Employer relationship.

15 10. Class Representative Enhancement Payments. The Court finds the Class
16 Representative Enhancement Payments of \$10,000, to be paid by Defendants to each Plaintiff
17 out of the Maximum Settlement Amount (totaling \$50,000), to be reasonable and appropriate.
18 The Class Representative Enhancement Payments are to be paid pursuant to the terms and
19 provisions set forth in the Settlement Agreement.

20 a. The rationale for making enhancement payments is the class representatives
21 should be compensated for the expense and risk they have incurred in conferring a
22 benefit on other class members. Such enhancement payments are appropriate if
23 they are necessary to induce individuals to participate in the suit. Criteria courts
24 may consider include: (1) risk in commencing suit; (2) notoriety and personal
25 difficulties encountered; (3) amount of time and effort spent; (4) duration of the
26 litigation; and (5) personal benefit (or lack thereof) enjoyed.

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1 b. The Court reviewed Plaintiffs' declarations outlining their involvement in the
2 case. Given the risks inherent in their services as the class representatives,
3 duration of the case and time involved, and benefits created for the Class, the
4 Court approves the Class Representative Enhancement Payments of \$10,000 to be
5 paid to each Plaintiff.

6 11. Attorneys' Fees and Costs. The Court finds an award of attorneys' fees of
7 \$385,000, to be paid out of the Maximum Settlement Amount by Defendants to Class Counsel,
8 to be reasonable and appropriate. The Court further finds an award of actual litigation costs of
9 \$15,219.66, to be paid by Defendants to Class Counsel out of the Maximum Settlement Amount,
10 to be reasonable and appropriate. Such fees and costs are to be paid pursuant to the terms and
11 provisions set forth in the Settlement. Defendants shall not be required to pay for any other
12 attorneys' fees and expenses, costs, or disbursements incurred by Class Counsel or any other
13 counsel representing Plaintiffs or Class Members. Defendants shall also not be required to pay
14 for any other attorneys' fees and expenses, costs, or disbursements incurred by Plaintiffs or Class
15 Members in connection with or related in any manner to this matter, Settlement, settlement
16 administration, and/or Released Claims and PAGA Released Claims.

17 a. Courts have independent right and responsibility to review attorneys' fees and
18 only award so much as determined reasonable. (See *Garabedian v. Los Angeles*
19 *Cellular Telephone Co.* (2004) 118 Cal.App.4th 123, 127-28.) The attorneys' fees
20 requested by Class Counsel is thirty-five percent (35%) of the common fund
21 created for the benefit of the Class Members and is supported by use of the
22 percentage-fee method. (See *Laffitte v. Robert Half International, Inc.* (2016) 1
23 Cal.5th 480, 504.) Considering the excellent results achieved, financial risks
24 undertaken, difficult nature of this litigation, skills required to deal with these
25 issues, percentage fees award in other cases, and contingent fees charged, in
26 private marketplace, the Court finds the attorneys' fees is with the legal
27 marketplace, is reasonable, and is approved.

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1 b. The Court reviewed the declaration of Douglas Han regarding the costs expended
2 in the prosecution of this litigation. Under the terms of the Settlement, Class
3 Counsel may seek reimbursement of up to \$25,000 in litigation costs. The Court
4 finds Class Counsel expended \$15,219.66 in litigation costs and that such costs
5 were reasonable. The Court approves payment of attorneys' costs of \$15,219.66
6 for the reimbursement of the costs and expenses incurred by Class Counsel.

7 12. Claims Administration Costs. The Court finds Claims Administration Costs of
8 \$11,750, to be paid by Defendants to the Claims Administrator out of the Maximum Settlement
9 Amount, to be reasonable and appropriate. The Claims Administration Costs are to be paid
10 pursuant to terms and provisions set forth in the Settlement Agreement.

11 a. The Court reviewed the declaration of William Argueta from CPT Group, Inc.,
12 the Court-approved Claims Administrator. The Court finds notice was provided to
13 the Class pursuant to the Preliminary Approval Order, constitutes the best
14 practicable notice to the Class, and satisfied due process. Thus, the Court
15 approves a payment for Claims Administration Costs of \$11,750 for the Claims
16 Administrator's services in administering this settlement.

17 13. PAGA Payment. The Court finds Private Attorneys General Act of 2004
18 ("PAGA") Payment of \$50,000, seventy-five percent (75%) of which (\$37,500) will be paid by
19 Defendants to the California Labor and Workforce Development Agency out of the Maximum
20 Settlement Amount and twenty-five percent (25%) of which (\$12,500) will be distributed, pro
21 rata, based on weeks worked to all PAGA Aggrieved Employees, to be reasonable and
22 appropriate. The PAGA Payment is to be paid pursuant to the terms and provisions set forth in
23 the Settlement Agreement.

24 14. Funding of the Settlement. Within three (3) business days after the Final
25 Approval of the Settlement, the Claims Administrator will provide the Parties with an accounting
26 of the amounts to be paid by Defendants pursuant to the terms of the Settlement. Within three (3)
27 business days of the Court granting final approval, the Claims Administrator will also calculate
28 all payments due. Defendants will deposit for payment of all Court-approved and claim amounts

1 from the Maximum Settlement Amount into a Qualified Settlement Fund account to be
2 established by the Claims Administrator within fifteen (15) business days of the Effective Date.
3 Afterwards, the Claims Administrator will distribute all payments due under the Settlement.

4 15. Fairness of the Settlement. As noted in the Preliminary Approval Order, the
5 Settlement is entitled to a presumption of fairness. In their moving papers, Plaintiffs contend the
6 Settlement Agreement was the product of arm's-length negotiations following extensive
7 litigation, discovery, and exchange of documentation relating to the claims. The negotiations
8 were facilitated with the assistance of mediator Marc J. Feder, an experienced and well-respected
9 class action mediator.

10 a. The moving papers indicate the *average* Individual Settlement Payment will be
11 around \$1,255.61, and the *highest* Individual Settlement Share will be about
12 \$5,916.04 under the proposed allocation.

13 b. There were also no Notices of Objection to and no Requests for Exclusion from
14 the Settlement. This is further proof of the fairness of the Settlement.

15 16. Uncashed Settlement Checks. Any checks issued by the Claims Administrator to
16 Claimants will be negotiable for at least one hundred eighty (180) calendar days. Those funds
17 represented by settlement checks returned as undeliverable and those settlement checks
18 remaining uncashed for more than one hundred eighty (180) calendar days after issuance will be
19 sent to a California State Controller's Office.

20 17. Modification of Settlement Agreement. The Settlement Class Members are
21 hereby authorized, upon approval of the Court, to agree to and adopt amendments to or
22 modifications of the Settlement Agreement, by a written instrument signed by the named Parties
23 and counsel for all Parties or their successors-in-interest. Such amendments or modifications
24 shall be consistent with this Order and Judgment and cannot limit the rights of Settlement Class
25 Members under the Settlement Agreement.

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18. Retention of Jurisdiction: The Court has jurisdiction to enter this Order and Judgment. This Court expressly retains jurisdiction for the administration, interpretation, effectuation, and/or enforcement of the Settlement Agreement and of this Order and Judgment, and for any other necessary purpose, including, without limitation:

- a. enforcing the terms and provisions of the Agreement and resolving any disputes, claims, or causes of action in this lawsuit that, in whole or in part, are related to or arise out of the Agreement or this Order and Judgment;
- b. entering such additional orders as may be necessary or appropriate to protect or effectuate this Order and Judgment approving the Agreement, and permanently enjoining Plaintiffs from initiating or pursuing related proceedings, or to ensure the fair and orderly administration of the Settlement; and
- c. entering any other necessary or appropriate orders to protect and effectuate this Court's retention of continuing jurisdiction.

The Motion for Final Approval of Class Action Settlement, Attorneys' Fees and Costs, and Class Representative Enhancement Payments is GRANTED. The Claims Administrator is directed to carry out the terms of the Agreement forthwith.

THE PARTIES ARE HEREBY ORDERED TO COMPLY WITH THE TERMS OF THE SETTLEMENT AGREEMENT. PURSUANT TO CALIFORNIA RULES OF COURT 3.769, THE COURT HEREBY ENTERS FINAL JUDGMENT BASED UPON THE TERMS OF THIS ORDER AND SETTLEMENT AGREEMENT AND, WITHOUT AFFECTING THE FINALITY OF THIS MATTER, RETAINS EXCLUSIVE AND CONTINUING JURISDICTION TO ENFORCE THIS ORDER, THE SETTLEMENT AGREEMENT, AND THE JUDGMENT THEREON.

IT IS SO ORDERED.

DATED: APR 25 2023

HONORABLE BARBARA KRONLUND
SUPERIOR COURT JUDGE

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PROOF OF SERVICE
1013A(3) CCP

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 751 N. Fair Oaks Avenue, Suite 101, Pasadena, CA 91103 and my electronic service address is jtorrez@justicelawcorp.com

On April 26, 2023, I served the foregoing document described as

ORDER OF FINAL APPROVAL AND JUDGMENT

for the following case: **Loera, et. al v. TruGreen, Inc., et. al**
LWDA/Court Case No.: **LWDA Case No.: CM-841323-21**
Court Case No.: STK-CV-UOE-2022-0005745
San Joaquin County Superior Court

on interested parties in this action by electronically submitting as follows:

State of California
Labor & Workforce Development Agency
800 Capitol Mall, MIC-55
Sacramento, California 95814

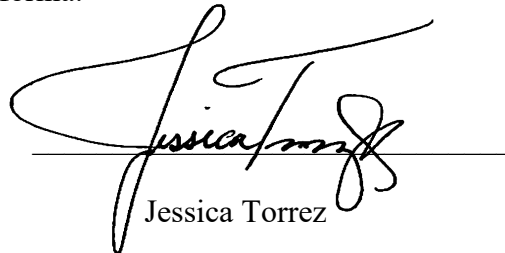
[X] BY ELECTRONIC SUBMISSION

Pursuant to California Senate Bill No. 836, I caused the documents described above to be electronically submitted by and through the procedure stated on the website of the State of California Labor and Workforce Development Agency.

[X] STATE

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

Executed on April 26, 2023, at Pasadena, California.


Jessica Torrez