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

WILIAN CHAVARRIA RUIZ, individually, and
on behalf of all others similarly situated,

Plaintiffs,

v.

DEL CONTE'S LANDSCAPING, INC., a
corporation, and DOES 1 through 10, inclusive,

Defendants.

Lead Case No.: RG21113047
Consolidated Case No.: 21CV003134

**CLASS AND REPRESENTATIVE
ACTION**

[Assigned for all purposes to: Hon. Michael
Markman, Dept. 23]

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

[Filed with Notice of Motion and Motion,
Memorandum of Points and Authorities and
the Declaration of Justin F. Marquez]

PRELIMINARY APPROVAL HEARING

Date: August 13, 2024
Time: 10:00 a.m.
Dept: 23
Reservation ID: 013535082215

Complaint filed: September 7, 2021
PAGA Complaint filed: November 24, 2021
Trial date: Not set

1 WILIAN CHAVARRIA RUIZ, on behalf of the
State of California and other aggrieved persons,

2 Plaintiff,

3 v.

4 DEL CONTE'S LANDSCAPING, INC., a
corporation; and DOES 1 through 10, inclusive,

5 Defendants.
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1 The Court has before it Plaintiff Wilian Chavarria Ruiz's ("Plaintiff") Motion for
2 Preliminary Approval of Class Action Settlement. Having reviewed the Motion for Preliminary
3 Approval of Class Action Settlement, the Declaration of Justin F. Marquez, the Class Action
4 and PAGA Settlement Agreement and Class Notice (which is referred to here as the "Settlement
5 Agreement"), and good cause appearing, the Court hereby finds and orders as follows:

6 1. The Court finds on a preliminary basis that the Settlement Agreement appears to
7 be fair, adequate, and reasonable and therefore meets the requirements for preliminary approval.
8 The Court grants preliminary approval of the Settlement and the Settlement Class based upon
9 the terms set forth in the Settlement Agreement between Plaintiff Wilian Chavarria Ruiz and
10 Defendant Del Conte's Landscaping, Inc. ("Del Conte" or "Defendant"), attached to the
11 Declaration of Justin F. Marquez in Support of Plaintiff's Motion for Preliminary Approval of
12 Class Action Settlement as Exhibit 1.

13 2. The Settlement falls within the range of reasonableness of a settlement which
14 could ultimately be given final approval by this Court, and appears to be presumptively valid,
15 subject only to any objections that may be raised at the Final Approval Hearing and final
16 approval by this Court. The Court notes that Defendant has agreed to create a common fund of
17 \$650,000.00 to cover (a) settlement payments to class members who do not validly opt out; (b)
18 a \$20,000.00 payment to the State of California, Labor & Workforce Development Agency for
19 its share of the settlement of claims for penalties under the Private Attorneys General Act, with
20 75% of which (\$15,000.00) will be paid to the LWDA and 25% (\$5,000.00) will be paid to
21 eligible Aggrieved Employees; (c) Class Representative service payment of up to \$10,000.00
22 for Plaintiff Wilian Chavarria Ruiz; (d) Class Counsel's attorneys' fees, not to exceed 33 1/3%
23 of the Gross Settlement Amount (\$216,666.67), and up to \$20,000.00 in costs for actual
24 litigation expenses incurred by Class Counsel; and (e) Settlement Administration Costs of up to
25 \$15,000.00.

26 3. The Court preliminarily finds that the terms of the Settlement appear to be within
27 the range of possible approval, pursuant to California Code of Civil Procedure § 382 and
28 applicable law. The Court finds on a preliminary basis that: (1) the settlement amount is fair

1 and reasonable to the class members when balanced against the probable outcome of further
2 litigation relating to class certification, liability and damages issues, and potential appeals; (2)
3 significant informal discovery, investigation, research, and litigation have been conducted such
4 that counsel for the parties at this time are able to reasonably evaluate their respective positions;
5 (3) settlement at this time will avoid substantial costs, delay, and risks that would be presented
6 by the further prosecution of the litigation; and (4) the proposed settlement has been reached as
7 the result of intensive, serious, and non-collusive negotiations between the Parties with the
8 assistance of a well-respected class action mediator. Accordingly, the Court preliminarily finds
9 that the Settlement Agreement was entered into in good faith.

10 4. A final fairness hearing on the question of whether the proposed settlement,
11 attorneys' fees and costs to Class Counsel, payment to the State of California, Labor &
12 Workforce Development Agency for its share of the settlement of claims for penalties under the
13 Private Attorneys General Act, and the class representative's enhancement award should be
14 finally approved as fair, reasonable and adequate as to the members of the class is hereby set in
15 accordance with the Implementation Schedule set forth below.

16 5. The Court provisionally certifies for settlement purposes only the following class
17 (the "Settlement Class"): "all hourly paid or non-exempt employees who worked for Del Conte
18 in California during the Class Period."

19 6. "Class Period" means the period from September 17, 2017 through the date of
20 preliminary approval.

21 7. The Court finds, for settlement purposes only, that the Settlement Class meets the
22 requirements for certification under California Code of Civil Procedure § 382 in that: (1) the
23 Settlement Class Members are so numerous that joinder is impractical; (2) there are questions
24 of law and fact that are common, or of general interest, to all Settlement Class Members, which
25 predominate over individual issues; (3) Plaintiff's claims are typical of the claims of the
26 Settlement Class Members; (4) Plaintiff and Class Counsel will fairly and adequately protect
27 the interests of the Settlement Class Members; and (5) a class action is superior to other
28 available methods for the fair and efficient adjudication of the controversy.

8. The Court appoints as Class Representative, for settlement purposes only, Plaintiff Wilian Chavarria Ruiz. The Court further preliminarily approves Plaintiff's ability to request an incentive award up to \$10,000.00.

9. The Court appoints, for settlement purposes only, Justin F. Marquez, Benjamin H. Haber, and Daniel J. Kramer of Wilshire Law Firm, PLC as Class Counsel. The Court further preliminarily approves Class Counsel's ability to request attorneys' fees of up to one-third of the Total Settlement Amount (\$216,666.67), and costs not to exceed \$20,000.00.

10. The Court appoints ILYM Group, Inc. as the Settlement Administrator with reasonable administration costs estimated not to exceed \$15,000.00.

11. The Court approves, as to form and content the Class Notice, attached to the Settlement Agreement. The Court finds on a preliminary basis that plan for distribution of the Notice to Settlement Class Members satisfies due process, provides the best notice practicable under the circumstances, and shall constitute due and sufficient notice to all persons entitled thereto.

12. The parties are ordered to carry out the Settlement according to the terms of the Settlement Agreement.

13. Any class member who does not timely and validly request exclusion from the settlement may object to the Settlement Agreement.

14. The Court orders the following Implementation Schedule:

Defendants to provide Class List to the Settlement Administrator	14 days after notice of entry of the Court's order granting Motion for Preliminary Approval
Settlement Administrator to mail the Notice Packets	14 days after receipt of the Class List from the Defendant
Response Deadline	60 days after Notice is mailed out by the Settlement Administrator

1 2 3 4 5 6 7 8 9 10	Deadline to Provide Written Objections, if any	60 days after Notice is mailed out by the Settlement Administrator
11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	Deadline to file Motion for Final Approval, Request for Attorney's Fees and Costs, and Service Award to Plaintiff	16 court days before hearing on Motion for Final Approval, which is _____;
	Final Approval Hearing	_____ at _____ a.m./p.m., or first available date thereafter, in Department 23. The hearing may be continued to another date without further notice to the Class Members.

15. The Court further ORDERS that, pending further order of this Court, all proceedings in this lawsuit, except those contemplated herein and in the settlement, are stayed.

IT IS SO ORDERED.

DATE:

Hon. Michael Markman
Alameda County Superior Court

Chavarria Ruiz v. Del Conte's Landscaping, Inc., et al.
RG21113047

I, Rebecca Padilla, state that I am employed in the aforesaid County, State of California; I am over the age of eighteen years and not a party to the within action; my business address is 3055 Wilshire Blvd., 12th Floor, Los Angeles, California 90010. My electronic service address is rpadilla@wilshirelawfirm.com.

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(X) **BY E-MAIL:** I hereby certify that this document was served from Los Angeles, California, by e-mail delivery on the parties listed herein at their most recent known email address or e-mail of record in this action.

Executed on July 22, 2024, at Los Angeles, California.


Rebecca Padilla