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14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

15 **COUNTY OF SAN JOAQUIN**

16 SERGIO MANZO ANDRADE A.K.A. JOSE
17 CANDELARIO VALENZUELA ZAVALA,
18 individually and on behalf of others similarly
19 situated, and as an aggrieved employee and
20 Private Attorney General,

21 Plaintiff,

22 vs.

23 DIRT MOVERS INC., a California
24 corporation; and DOES 1 through 50,
25 inclusive,

26 Defendants.

Case No. STK-CV-UOE-2021-0008346

*Assigned for all purposes to Honorable
Judge Barbara Kronlund, Dept. 10D*

**NOTICE OF ENTRY OF FINAL ORDER
AND JUDGMENT**

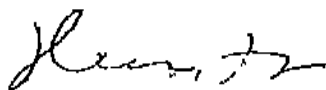
Complaint filed: September 3, 2021
Trial: None Set

1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 PLEASE TAKE NOTICE that on January 10, 2023, the Honorable Barbara Kronlund, in
3 Department 10D in the above-entitled Court, located at 180 E. Weber Ave., 2nd Floor, Stockton,
4 California 95201, executed the Proposed Final Order and Judgment Granting Plaintiff's Motion for
5 Final Approval of Class Action and PAGA Settlement. Attached hereto as **Exhibit A** is a true and
6 correct copy of the Final Order and Judgment which was executed and filed on January 10, 2023.

7
8 Dated: January 19, 2023

PROTECTION LAW GROUP, LLP

9
10 By: 
11 Heather Davis
12 Amir Nayebdadash
13 D. Luke Clapp
14 *Attorneys for Plaintiff*
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EXHIBIT A

10D
1-10-23

Filed JAN 10 2023
BRANDON E. RILEY, CLERK
By Allison Little
DEPUTY

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN JOAQUIN

BY FAX

SERGIO MANZO ANDRADE A.K.A. JOSE
CANDELARIO VALENZUELA ZAVALA,
individually and on behalf of others similarly
situated, and as an aggrieved employee and
Private Attorney General,

Plaintiff,

vs.

DIRT MOVERS INC., a California
corporation; and DOES 1 through 50,
inclusive,

Defendants.

Case No. STK-CV-UOE-2021-0008346

*Assigned for all purposes to Hon. Barbara
Kronlund, Dept. 10D*

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

Hearing Date: January 10, 2023
Hearing Time: 9:00 a.m.
Department: 10D

DEC 15 2022

[PROPOSED] ORDER

The Motion of Plaintiff Sergio Manzo Andrade A.K.A. Jose Candelario Valenzuela Zavala (“Plaintiff”) for Final Approval of Class Action and PAGA Settlement (“Motion”) came regularly for hearing before this Court on January 10, 2023. Consistent with the Court’s Preliminary Approval Order (“Preliminary Approval Order”), and as set forth in the Joint Stipulation of Class Action and PAGA Settlement thereto (“Agreement”), and due and adequate notice having been given to all Class Members as required in the Preliminary Approval Order, and the Court having considered all papers filed and proceedings had herein and otherwise being fully informed and good cause appearing therefore, it is hereby ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

1. This Final Order and Judgment incorporates the Agreement and, unless otherwise defined herein, all terms used herein shall have the same meaning as defined in the Agreement.

2. The term “Class” and “Class Members” shall mean the following: “All current and former hourly-paid non-exempt employees who worked for Defendant Dirt Movers, Inc. (Defendant) within the State of California at any time between September 3, 2017, and April 17, 2021.” The term “Participating Class Member” includes all Class Members who did not submit a timely and valid Request for Exclusion as provided in the Settlement.

3. The term “PAGA Member” shall mean the following: “All current and former non-exempt employees of Defendant Dirt Movers, Inc. who were employed by Defendant in the State of California at any time from June 29, 2020, through July 22, 2022.

4. This Court has jurisdiction over the subject matter of this Action and over all Parties to this Action, including all Class Members and PAGA Members.

5. The Court hereby finds the Settlement was entered into in good faith pursuant to and within the meaning of California Code of Civil Procedure section 877.6. The Court further finds that the Settlement is fair, adequate, and reasonable and that Plaintiff has satisfied the standards and applicable requirements for final approval of this class action settlement under California law, including the provisions of California Code of Civil Procedure section 382 and Federal Rule of Civil Procedure 23, approved for use by the California state courts in *Vasquez v.*

1 *Superior Court*, 4 Cal.3d 800, 821 (1971).

2 6. The Court hereby approves the Settlement as set forth in the Agreement and finds
3 that the Settlement is, in all respects, fair, adequate and reasonable, and directs the Parties to
4 effectuate the Settlement according to its terms unless expressly modified by this order. The Court
5 finds that the Settlement has been reached as a result of intensive, serious and non-collusive arms-
6 length negotiations. The Court further finds that the Parties have conducted extensive investigation
7 and research, and counsel for the Parties are able to reasonably evaluate their respective positions.
8 The Court also finds that Settlement at this time will avoid additional substantial costs, as well as
9 avoid the delay and risks that would be presented by the further prosecution of the Action. The
10 Court has reviewed the benefits that are being granted as part of the Settlement and recognizes the
11 significant value to the Class Members. The Court also finds that the Class is properly certified as
12 a class for settlement purposes only.

13 7. Distribution of the Notice directed to the Class Members as set forth in the
14 Agreement and the other matters set forth therein has been completed in conformity with the
15 Preliminary Approval Order, including individual notice to all Class Members who could be
16 identified through reasonable effort, and the best notice practicable under the circumstances. The
17 Notice provided due and adequate notice of the proceedings and of the matters set forth therein,
18 including the proposed Settlement set forth in the Agreement, to all persons entitled to such Notice,
19 and the Notice fully satisfied the requirements of due process. All Class Members and all Released
20 Class Claims and Released PAGA Claims are covered by and included within the Settlement and
21 this Final Order.

22 8. No Class Member submitted a timely and valid request to be excluded from the
23 Settlement. Accordingly, all Class Members are hereby explicitly included in this order and
24 Judgment and participating in the settlement. The last date to timely submit a request for exclusion
25 was November 11, 2022.

26 9. The Court also hereby finds that there were no written objections to the Settlement.
27 The last day to submit a written objection to the settlement was November 11, 2022. The Court
28 also notes there were no objections made at the hearing on Final Approval of the Settlement.

1 10. Upon the complete funding of the Gross Settlement Amount and all applicable
2 employer-side payroll taxes by Defendant, Participating Class Members shall fully release and
3 discharge Defendant Dirt Movers, Inc., and its past, present and/or future, officers, directors,
4 members, managers, agents, representatives, attorneys, insurers, partners, investors, shareholders,
5 administrators, parent companies, subsidiaries, affiliates, divisions, predecessors, successors,
6 assigns, exempt employees (current and former), any person acting on behalf of Defendant Dirt
7 Movers, Inc. pursuant to California Labor Code section 558.1, insurers, and joint venturers (the
8 “Released Parties”) from all rights, demands, losses, damages, liquidated damages, penalties,
9 interest, civil complaints, arbitration demands or suits, liabilities, and causes of actions that are
10 alleged, or reasonably could have been alleged, based on the facts alleged in the operative
11 complaint in the Action, including, but not limited to, factual claims regarding Defendant's alleged:
12 (i) failure to pay all regular wages, minimum wages, overtime, and double time wages due; (ii)
13 failure to provide meal periods or compensation in lieu thereof; (iii) failure to provide rest periods
14 or compensation in lieu thereof; (iv) failure to reimburse necessary business expenses; (v) failure
15 to provide complete, accurate wage statements; (vi) failure to pay wages timely at time of
16 termination or resignation; (vii) failure to provide timely pay wages during (the “Released Class
17 Claims”) that arose between September 3, 2017, and April 17, 2021. (the “Class Period”).

18 11. Additionally, upon the complete funding of the Gross Settlement Amount and all
19 applicable employer-side payroll taxes by Defendant the LWDA and the State of California,
20 through Plaintiff as its agent and/or proxy, shall release and discharge the Released Parties from
21 all claims for civil penalties under the California Labor Code Private Attorneys General Act of
22 2004 that could have been premised on the facts alleged both in the PAGA Notice provided to the
23 LWDA and in the operative complaint in *Sergio Manzo Andrade A.K.A. Jose Candelario*
24 *Valenzuela Zavala v. Dirt Movers, Inc.*” San Joaquin County Superior Court Case No. STK-CV-
25 UOE-2021-0008346 (the “Released PAGA Claims”) that arose between June 29, 2020, and July
26 22, 2022, (the “PAGA Period”).

27 12. Furthermore, upon the complete funding of the Gross Settlement Amount and all
28 applicable employer-side payroll taxes by Defendant, Plaintiff—on behalf of himself only—agrees

1 to the additional following General Release: In consideration of Defendant's promises and
2 agreements as set forth herein, Plaintiff hereby fully releases the Released Parties from any and all
3 Released Class Claims and Released PAGA Claims and also generally releases and discharges the
4 Released Parties from any and all claims, demands, obligations, causes of action, rights, or
5 liabilities of any kind which have been or could have been asserted against the Released Parties
6 arising out of or relating to his employment by Defendant or termination thereof, including but not
7 limited to claims for wages, restitution, penalties, retaliation, defamation, discrimination,
8 harassment or wrongful termination of employment. This release specifically includes any and all
9 claims, demands, obligations and/or causes of action for damages, restitution, penalties, interest,
10 and attorneys' fees and costs (except provided by the Settlement Agreement) relating to or in any
11 way connected with the matters referred to herein, whether or not known or suspected to exist,
12 and whether or not specifically or particularly described herein. Specifically, Plaintiff waives all
13 rights and benefits afforded by California Civil Code Section 1542, which provides

14 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE
15 CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO
16 EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE
17 RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE
18 MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE
19 DEBTOR OR RELEASED PARTY.

20 This release specifically excludes claims for unemployment insurance, disability, social
21 security, and workers compensation (with the exception of claims arising pursuant to California
22 Labor Code Sections 132(a) and 4553)

23 13. The Court finds the settlement payments provided for under the Agreement to be
24 fair and reasonable in light of all of the circumstances. Pursuant to the terms of the Agreement and
25 amendments thereto the Court orders Defendant to fund the Gross Settlement Amount of
26 \$300,000.00 within 14 calendar days of the Effective Date in order to provide payments for the
27 Class/PAGA Members individual settlement payments, class representative incentive payment for
28 Plaintiff, Class Counsel's attorney fees and costs, the Settlement Administrator's fees and
expenses, and penalties to the California Labor and Workforce Development Agency pursuant to

1 Labor Code Section 2698 et seq. The calculations and the payments shall be made administered in
2 accordance with the terms of the Agreement.

3 14. Pursuant to the terms of the Agreement and amendments thereto, and the
4 authorities, evidence and argument submitted by Class Counsel, the Court hereby awards Class
5 Counsel attorneys' fees in the amount of \$105,000.00 (35% of the Gross Settlement Amount) and
6 litigation costs in the amount of \$9,263.24 to Class Counsel for litigation costs and expenses from
7 the Gross Settlement Amount as final payment for and complete satisfaction of any and all
8 attorneys' fees and costs incurred by and/or owed to Class Counsel and any other person or entity
9 related to the Action. The Court further orders that the award of attorneys' fees and costs set forth
10 in this Paragraph shall be administered pursuant to the terms of the Agreement.

11 15. The Court hereby approves and orders a Class Representative Enhancement
12 Payment of \$5,000.00 to Plaintiff Sergio Manzo Andrade A.K.A. Jose Candelario Valenzuela
13 Zavala from the Gross Settlement Amount in accordance with the terms of the Agreement.

14 16. The Court approves and orders the PAGA Payment of \$15,000 to be paid as set
15 forth in the Agreement, including the payment in the amount of \$11,250 (75% of \$15,000) from
16 the Gross Settlement Amount to the California Labor Workforce Development Agency for
17 penalties arising under the Private Attorneys General Act of 2004 (PAGA). The remaining \$3,750
18 (25% of \$15,000) shall be distributed to the PAGA Members as set forth in the Agreement.

19 17. The Court also hereby approves and orders the Settlement Administration Costs to
20 be paid as set forth in the Agreement, including payment from the Gross Settlement Amount for
21 actual settlement administration expenses incurred by the Settlement Administrator, Phoenix
22 Settlement Administrators, in the amount of \$7,500.00.

23 18. The Court hereby approves and orders payment of Individual Settlement Payments
24 from the Net Settlement Amount to the Participating Class Members as set forth in the Agreement.

25 19. The Court also hereby approves and orders that any checks distributed from the
26 Gross Settlement Amount yet remaining uncashed after one hundred and eighty (180) calendar
27 days after being issued shall be void. All uncashed settlement checks shall be transferred to the
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1 California State Controller's Office and held in trust for such Class Members pursuant to
2 California Unclaimed Property Law, Civil Code Section 1500 et seq.

3 20. Provided the Settlement becomes effective under the terms of the Agreement, the
4 Court also hereby orders that the deadline for mailing the Court-approved individual settlement
5 payments, attorneys' fees and costs, and enhancement payments is as set forth in the Agreement.

6 21. To the extent not already done, the Court directs the Parties to effectuate the
7 Settlement in accordance with the terms of the Agreement.

8 22. Neither the Settlement nor any of the terms set forth in the Agreement is an
9 admission by Defendant, or any of the other Released Parties, nor is this Final Order a finding of
10 the validity of any claims in the Action or of any wrongdoing by Defendant, or any of the other
11 Released Parties. Neither this Final Order, the Agreement, nor any document referred to herein,
12 nor any action taken to carry out the Agreement is, may be construed as, or may be used as, an
13 admission by or against Defendant, or any of the other Released Parties, of any fault, wrongdoing
14 or liability whatsoever. The entering into or carrying out of the Agreement, and any negotiations
15 or proceedings related thereto, shall not in any event be construed as, or deemed to be evidence of,
16 an admission or concession with regard to the denials or defenses by Defendant, or any of the other
17 Released Parties, and shall not be offered in evidence in any action or proceeding in any court,
18 administrative agency or other tribunal for any purpose whatsoever other than to enforce the
19 provisions of this Final Order, the Agreement, the Released Class and PAGA Claims, claims
20 covered by Plaintiff's General Release, or any related agreement or release. Notwithstanding these
21 restrictions, any of the Released Parties may file in the Action, or submit in any other proceeding,
22 the Final Order, the Agreement, and any other papers and records on file in the Action as evidence
23 of the Settlement to support a defense of *res judicata*, *collateral estoppel*, release, or other theory
24 of claim or issue preclusion or similar defense as to the Released Class and PAGA Claims or
25 claims covered by Plaintiff's General Release.

26 23. Judgment is hereby entered on the terms set forth in the Agreement.

27 24. Without affecting the finality of this Judgment, the Court shall retain continuing
28 jurisdiction over this action and the Parties, including all Class Members, and over all matters

1 pertaining to the implementation and enforcement of the terms of the Agreement pursuant to
2 California Rule of Court 3.769(h) and California Code of Civil Procedure section 664.6. Except
3 as provided to the contrary herein or in the Agreement any disputes or controversies arising with
4 or with respect to the interpretation, enforcement, or implementation of the Agreement shall be
5 presented to the Court for resolution.

6
7 **IT IS SO ORDERED. LET JUDGMENT BE ENTERED ACCORDINGLY.**

8 DATED: **JAN 10 2023**

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10 HON. BARBARA KRONLUND
11 JUDGE OF THE SUPERIOR COURT
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