

1 Aaron A. Bartz, (SBN 198722)
aaron@bartzlawgroup.com
2 BARTZ LAW GROUP, APC
5151 California Avenue, Suite 100
3 Irvine, CA 92617-3205
Telephone: (949) 504-4413
4 Facsimile: (949) 656-7760

5 Attorneys for Plaintiffs JOSE GONZALEZ and ANTONIO SERRANO, on behalf of themselves
and all others similarly situated

6 Gregory P. Wong (SBN: 204502)
7 greg@barklawfirm.com
John F. Litwin (SBN: 301611)
8 john@barklawfirm.com
BARKHORDARIAN LAW FIRM, PLC
9 6047 Bristol Parkway, Second Floor
Culver City, CA 90230
10 Telephone: (323) 450-2777
Facsimile: (310) 215-3416

11 Attorneys for Plaintiff IGNAIN PEREZ, on behalf of himself and all others similarly situated
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13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
14 **COUNTY OF LOS ANGELES**
15

16 JOSE GONZALEZ, an individual; IGNAIN
PEREZ, an individual; ANTONIO
17 SERRANO, an individual; on behalf of
themselves and all others similarly situated,

18 Plaintiffs,

19 vs.

20 ROTO-ROOTERS SERVICES COMPANY,
an Iowa Corporation; and DOES 1 through
21 100, inclusive,

22 Defendants.
23

CASE NO.: 22STCV34334

*Assigned for All Purposes to:
Hon. Stephanie M. Bowick, Dept. 19*

**[PROPOSED] ORDER GRANTING
PLAINTIFFS' MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION AND PAGA SETTLEMENT**

Date: September 12, 2023

Time: 8:30 a.m.

Location: Dept. 19

Reservation ID: 898032856207

Action Filed: October 25, 2022

1 Plaintiffs Jose Gonzalez, Ignain Perez, and Antonio Serrano (hereinafter “Plaintiffs”) motion
2 for an Order Preliminarily Approving a Class Action Settlement and setting a Final Approval
3 Settlement Fairness Hearing was heard by the court on September 12, 2023, at 8:30 a.m., in Dept. 19
4 of the above-entitled Court, the Honorable Stephanie M. Bowick presiding. The Court has considered
5 the Class and PAGA Settlement Agreement and Notice (hereinafter the “Agreement” or the
6 “Settlement”) and all other papers filed in this action.

7 **NOW THEREFORE, IT IS HEREBY ORDERED:**

8 1. All defined terms contained herein shall have the same meanings as set forth in the
9 Agreement.

10 2. The Class Representatives and Defendant, through their counsel of record in the
11 Litigation, have reached an agreement to settle all claims in the Litigation on behalf of the Class as a
12 whole.

13 3. The Court hereby conditionally certifies the following Class for settlement purposes
14 only: All current or former non-exempt persons employed by Defendant in California who do not opt
15 out of the Settlement. The class expressly includes any non-exempt employee paid on an alleged
16 commission or piece- rate compensation system. However, the class shall exclude all persons who
17 were part of the *Lax v. Roto- Rooter Services Co.* (“*Lax*”) No. 18CV338652. The Class Period is
18 from May 10, 2018, to (a) the date the Court grants preliminary approval, or (b) a date prior of
19 Defendant's choosing as set forth in the escalator clause set forth in § 8 of the Agreement.

20 4. Should for whatever reason the Agreement and Judgment not become Final, the fact
21 that the parties were willing to stipulate to certification of a class as part of the Agreement shall have
22 no bearing on or be admissible in connection with the issue of whether a class should be certified in
23 a non-settlement context.

24 5. The Court appoints and designates: (a) Plaintiffs Jose Gonzalez, Ignain Perez, and
25 Antonio Serrano as the Class Representatives and (b) Barkhordarian Law Firm PLC and Bartz Law
26 Group APC as Class Counsel for the Class. Class Counsel is authorized to act on behalf of the Class
27 with respect to all acts or consents required by, or which may be given, pursuant to the Agreement,
28 and such other acts reasonably necessary to finalize the Agreement and its terms. Any Class Member

1 may enter an appearance through his or her own counsel at such Class Member's own expense. Any
2 Class Member who does not enter an appearance or appear on his or her own behalf will be
3 represented by Class Counsel.

4 6. The Court hereby approves the terms and conditions provided for in the Agreement.

5 7. The Court hereby preliminarily approves the Agreement and the Gross Settlement
6 Amount for \$1,500,000.00, which is to be distributed as follows: Out of the Gross Settlement
7 Amount: (a) Up to \$45,000.00 (i.e., up to \$15,000 for each plaintiff) is to be paid to the Class
8 Representatives for their services to the Class; (b) up to \$500,000.00 shall be paid to Class Counsel
9 for attorneys' fees and up to \$25,000.00 shall be paid to Class Counsel as reimbursement of actual
10 costs incurred; and (c) the Settlement Administrator shall be paid for its fees and costs relating to the
11 claims administration process which is expected to not exceed \$25,000.00; and (d) \$50,000 for
12 settlement of the claim for penalties pursuant to the Private Attorneys' General Act ("PAGA"),
13 allocated 25% to the Aggrieved Employees (\$12,500.00) and the 75% to LWDA (\$37,500.00) in
14 settlement of PAGA claims. The Court further hereby preliminarily approves the formulas provided
15 in the Agreement regarding Individual Settlement Amounts.

16 8. The Court finds that on a preliminary basis the Agreement appears to be within the
17 range of reasonableness of a settlement, including the Class Representatives' service awards, Class
18 Counsel fees and costs, the Administrator's fees and the allocation of individual settlement payments,
19 that could ultimately be given final approval by this Court. It appears to the Court on a preliminary
20 basis that the settlement is fair, adequate, and reasonable as to all potential Class Members when
21 balanced against the probable outcome of further litigation relating to liability and damages issues.
22 It also appears that extensive and costly investigation, research, and court proceedings have been
23 conducted so that counsel for the Settling Parties are able to reasonably evaluate their respective
24 positions. It appears to the Court that settlement at this time will avoid substantial additional costs
25 by all Settling Parties, as well as avoid the delay and risks that would be presented by the further
26 prosecution of the Litigation. It also appears that settlement has been reached as a result of intensive,
27 serious, and non-collusive, arms-length negotiations.

28 9. A hearing (the "Settlement Fairness Hearing") shall be held before this Court on

1 _____ at _____ in Department 19 of the above listed Superior Court of the State of
2 California, County of Los Angeles to determine all necessary matters concerning the Agreement,
3 including whether the proposed settlement of the action on the terms and conditions provided for in
4 the Agreement is fair, adequate, and reasonable and should be finally approved by the Court and
5 whether a Judgment, as provided in the Agreement, should be entered herein. At this same time, a
6 hearing on Class Counsel's motion for attorneys' fees and reimbursement of litigation costs and the
7 Class Representatives' service awards shall also be held.

8 10. The Court hereby approves, as to form and content, the Notice of Class Action
9 Settlement and Hearing Date for Final Court Approval ("Class Notice") to be sent to Class Members,
10 which is attached as an exhibit to the Agreement. The Court finds that distribution of the Class Notice
11 to Class Members substantially in the manner and form set forth in the Agreement and this Order
12 meet the requirements of due process and shall constitute due and sufficient notice to all parties
13 entitled thereto.

14 11. The Court appoints and designates CPT Group, Inc. as the Settlement Administrator.
15 The Court hereby directs the Claims Administrator to provide the approved Class Notice to Class
16 Members using the procedures set forth in the Agreement.

17 12. Any Class Member may choose to opt out of and be excluded from the settlement as
18 provided in the Agreement and Class Notice and by following the instructions for requesting
19 exclusion. Any person who timely and properly opts out of the settlement will not be bound by the
20 Agreement or have any right to object, appeal, or comment thereon. Any Request for Exclusion must
21 be signed by each such Class Member opting out and must otherwise comply with the requirements
22 delineated in the Class Notice. Class Members who have not requested exclusion by submitting a
23 valid and timely Request for Exclusion, by the Response Deadline, shall be bound by all
24 determinations of the Court, the Agreement, and Judgment.

25 13. Any Class Member may object to the Agreement or express his or her views regarding
26 the Agreement and may present evidence and file briefs or other papers that may be proper and
27 relevant to the issues to be heard and determined by the Court as provided in the Class Notice.

28 14. Defendant must exercise any right it may have to shorten the Class Period or withdraw

1 from the agreement by no later than ten calendar days after the Administrator sends the final
2 Exclusion List to Defense Counsel.

3 15. The Motion for Final Approval shall be filed by Class Counsel no later than sixteen
4 (16) court days before the Settlement Fairness Hearing.

5 16. In the event that the Effective Date occurs, all Settlement Class Members and Class
6 Representatives will be deemed to have forever released and discharged the Released Claims
7 applicable to them.

8 17. Neither the Settlement nor any exhibit, document, or instrument delivered thereunder
9 shall be construed as a concession or admission by Defendant in any way that the claims asserted
10 have any merit or that this action were properly brought as a class or representative action, and shall
11 not be used as evidence of, or used against Defendant as, an admission or indication in any way,
12 including with respect to any claim of any liability, wrongdoing, fault or omission by Defendant or
13 with respect to the truth of any allegation asserted by any person. Whether or not the Settlement is
14 finally approved, neither the Settlement, nor any exhibit, document, statement, proceeding or conduct
15 related to the Settlement, nor any reports or accounts thereof, shall in any event be construed as,
16 offered or admitted in evidence as, received as or deemed to be evidence for any purpose adverse to
17 the Defendant, including, but not limited to, evidence of a presumption, concession, indication or
18 admission by Defendant of any liability, fault, wrongdoing, omission, concession or damage.

19 18. In the event the Settlement does not become effective in accordance with the terms of
20 the Agreement, or the Settlement is not finally approved, or is terminated, canceled or fails to become
21 effective for any reason, this Order shall be rendered null and void and shall be vacated, and the
22 parties shall revert to their respective positions as of before entering into the Agreement, and
23 expressly reserve their respective rights regarding the prosecution and defense of this action,
24 including all available defenses and affirmative defenses, and arguments that any claim in the action
25 could not be certified as a class action and/or managed as a representative action. In such an event,
26 the Court's orders regarding the Settlement, including this Order, shall not be used or referred to in
27 litigation for any purpose. Nothing in this paragraph is intended to alter the terms of the Agreement
28 with respect to the effect of the Agreement if it is not approved.

1 19. The Court reserves the right to adjourn or continue the date of the Settlement Fairness
2 Hearing and all dates provided for in the Agreement without further notice to the Class and retains
3 jurisdiction to consider all further applications arising out of or connected with the Agreement.

4 **IT IS SO ORDERED.**

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7 DATED:

8 _____
9 The Honorable Stephanie M. Bowick
10 Judge of the Superior Court
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