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CAMPOS VARGAS, on behalf of himself and

7 all others similarly situated and aggrieved,

8
9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

10 **FOR THE COUNTY OF LOS ANGELES**

11
12 KEVIN LIBERATO CAMPOS VARGAS, an
individual, and on behalf of all others similarly
13 situated and aggrieved,

14
15 Plaintiff,

16 v.

17 CALIFORNIA ARBORIST COMPLETE
TREE CARE, INC., a California corporation;
18 and DOES 1 through 100, inclusive,

19
20 Defendants.

CASE NO.: 24STCV11469 (Lead Case)

[RELATED CASE NO.: 24STCV20153]

*[Assigned for all purposes to the Hon. Theresa
Traber in Dept. 1]*

[PROPOSED] **ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
AND REPRESENTATIVE ACTION
SETTLEMENT AND CERTIFYING
CLASS FOR SETTLEMENT PURPOSES
ONLY**

1 This Court, having considered the Motion of plaintiff Kevin Liberato Campos Vargas
2 (“Plaintiff”) for Preliminary Approval of Class and Representative Action Settlement and
3 Provisional Class Certification for Settlement Purposes Only (“Motion for Preliminary Approval”),
4 the Declarations of Vedang J. Patel, David D. Bibiyan, Kevin Liberato Campos Vargas, and Jodey
5 Lawrence, the Class and PAGA Settlement Agreement (“Settlement,” “Agreement” or “Settlement
6 Agreement”), the proposed Notice of Class Action Settlement and Hearing Date for Final Court
7 Approval (“Class Notice”), and other documents submitted in support of the Motion for Preliminary
8 Approval, hereby **ORDERS, ADJUDGES AND DECREES THAT:**

9 1. The definitions set out in the Settlement Agreement are incorporated by reference
10 into this Order; all terms defined therein shall have the same meaning in this Order.

11 2. The Court certifies the following settlement class (“Settlement Class,” “Settlement
12 Class Members,” “Class Members”) for the purpose of settlement only: all persons employed by
13 defendant California Arborist Complete Tree Care, Inc. (“Defendant”) in California and classified
14 as non-exempt, hourly-paid employees who worked for Defendant during the period from May 7,
15 2020 through April 7, 2026, or through such earlier date as may apply under the escalation clause
16 in paragraph 8.1 of the Settlement Agreement (“Class Period”).

17 3. The Court preliminarily appoints the named plaintiff Kevin Liberato Campos Vargas
18 as Class Representative, and David D. Bibiyan and Vedang J. Patel of Bibiyan Law Group, P.C., as
19 Class Counsel.

20 4. The Court preliminarily approves the proposed class settlement upon the terms and
21 conditions set forth in the Settlement Agreement. The Court finds, on a preliminary basis, that the
22 settlement appears to be within the range of reasonableness of settlement that could ultimately be
23 given final approval by the Court. It appears to the Court on a preliminary basis that the settlement
24 amount is fair, adequate, and reasonable as to all potential class members when balanced against the
25 probable outcome of further litigation relating to liability and damages issues. It further appears that
26 extensive and costly investigation and research have been conducted such that counsel for the parties
27 at this time are reasonably able to evaluate their respective positions. It further appears to the Court
28 that the settlement at this time will avoid substantial additional costs to all parties, as well as the

1 delay and risks that would be presented by the further prosecution of the Action. It further appears
2 that the settlement has been reached as the result of intensive, non-collusive and arms-length
3 negotiations utilizing an experienced third-party neutral.

4 5. The Court approves, as to form and content, the Class Notice that has been submitted
5 herewith.

6 6. The Court directs the mailing of the Class Notice by first-class regular U.S. mail to
7 the Class Members in accordance with the procedures set forth in the Settlement Agreement. The
8 Court finds that dissemination of the Class Notice set forth in the Settlement Agreement complies
9 with the requirements of law and appears to be the best notice practicable under the circumstances.

10 7. The Court hereby preliminarily approves the definition and disposition of the Gross
11 Settlement Amount of \$200,000.00, which is inclusive of: attorneys' fees of up to thirty-five percent
12 (35%) of the Gross Settlement Amount, which, if not escalated pursuant to the Agreement, amounts
13 to \$70,000.00, in addition to actual costs incurred of up to \$30,000.00; service award of up to
14 \$7,500.00 to Plaintiff; costs of settlement administration of no more than \$6,750.00 and Private
15 Attorneys General Act of 2004 ("PAGA") penalties in the amount of \$20,000.00, of which
16 \$15,000.00 (75%) will be paid to the Labor and Workforce Development Agency ("LWDA") and
17 \$5,000.00 (25%) to "Aggrieved Employees," defined as all persons employed by Defendant in
18 California and classified as non-exempt, hourly-paid employees who worked for Defendant during
19 the period from May 7, 2023 through the end of the Class Period ("PAGA Period").

20 8. The Gross Settlement Amount expressly excludes Employer's Taxes, which will be
21 paid separately and apart by Defendant on the wages portion of the Gross Settlement Amount.

22 9. Class Member's "Workweek" shall mean any week during which a Class Member
23 worked for Defendant, for at least one day during the Class Period, based on hire dates, re-hire dates
24 (as applicable), and termination dates (as applicable).

25 10. Defendant represents that there are no more than 7,150 Workweeks worked by Class
26 Members during the Class Period. In the event the number of Workweeks worked by Class Members
27 during the Class Period increases by more than 10%, or 715 Workweeks, then Defendant may, at
28 their sole option, choose to either: (1) increase the Gross Settlement Amount proportionally by the

1 Workweeks in excess of 7,150 Workweeks multiplied Defendant represents that there are no more
2 than 7,150 Workweeks worked by Class Members during the Class Period. In the event the number
3 of Workweeks worked by Class Members during the Class Period increases by more than 10%, or
4 715 Workweeks, then Defendant may, at their sole option, choose to either: (1) increase the Gross
5 Settlement Amount proportionally by the Workweeks in excess of 7,150 Workweeks multiplied by
6 the Workweek Value; or (2) end the Class Period and PAGA Period as of the date on which the
7 number of Workweeks reaches 7,150. The Workweek Value shall be calculated by dividing the
8 originally agreed-upon Gross Settlement Amount (\$200,000.00) by 7,150, which amounts to a
9 Workweek Value of \$27.97. Thus, for example, should there be 8,000 Workweeks in the Class
10 Period, then the Gross Settlement Amount shall be increased by \$23,774.50 ([8,000 Workweeks –
11 7,150 Workweeks] x \$27.97 per Workweek). Should Defendant elect to end the Class Period and
12 PAGA Period on the date as of which 7,150 Workweeks have been worked, Defendant must provide
13 written notice of its election and the end date of the Class Period and PAGA Period no later than 30
14 days prior to the first set hearing on Plaintiff’s Motion for Preliminary Approval.

15 11. The Court deems Phoenix Class Action Administration Solutions (“Phoenix” or
16 “Settlement Administrator”), the settlement administrator, and preliminarily approves payment of
17 administrative costs, not to exceed \$6,750.00 out of the Gross Settlement Amount for services to be
18 rendered by Phoenix on behalf of the class.

19 12. Not later than 15 calendar days after the Court grants Preliminary Approval of the
20 Settlement, unless otherwise agreed by the Parties, Defendant will deliver the Class Data to the
21 Administrator, in the form of a Microsoft Excel spreadsheet. “Class Data” means Class Member
22 identifying information in Defendant’s custody, possession, or control, including the Class
23 Member’s (1) name; (2) last known address(es); (3) last known telephone number(s); (4) last known
24 Social Security Number(s); and (5) the dates of employment (i.e., hire dates, and, if applicable, re-
25 hire date(s) and/or separation date(s)).

26 13. To protect Class Members’ privacy rights, the Administrator must maintain the Class
27 Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose,
28

1 and restrict access to the Class Data to Administrator employees who need access to the Class Data
2 to effect and perform under this Agreement.

3 14. Before mailing Class Notices, the Administrator shall update Class Member
4 addresses using the National Change of Address database.

5 15. Using best efforts to perform as soon as possible, and in no event later than 14 days
6 after receiving the Class Data, the Administrator will send to all Class Members identified in the
7 Class Data, via first-class United States Postal Service (“USPS”) mail, the Class Notice with Spanish
8 translation, substantially in the form attached to this Agreement as Exhibit A. The first page of the
9 Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or
10 Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA
11 Pay Periods (if applicable) used to calculate these amounts.

12 16. “Response Deadline” means forty-five (45) days after the Administrator mails
13 Notice to Class Members and Aggrieved Employees, and shall be the last date on which Class
14 Members may: (a) mail Requests for Exclusion from the Settlement, or (b) mail his or her Objection
15 to the Settlement. Class Members to whom Notice Packets are resent after having been returned
16 undeliverable to the Administrator shall have an additional 15 days beyond the Response Deadline
17 has expired.

18 17. Before the date by which Plaintiff is required to file the Motion for Final Approval
19 of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a
20 declaration suitable for filing in Court attesting to its due diligence and compliance with all of its
21 obligations under the Agreement, including, but not limited to, its mailing of Class Notice, the Class
22 Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members,
23 the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the
24 number of written objections and attach the Exclusion List.

25 18. Class Members who wish to exclude themselves (opt-out of) the Class Settlement
26 must send the Administrator, by mail, a signed written Request for Exclusion not later than 45 days
27 after the Administrator mails the Class Notice (plus an additional 15 days for Class Members whose
28 Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her

1 representative that reasonably communicates the Class Member's election to be excluded from the
2 Settlement and includes the Class Member's name, address and email address or telephone number.
3 To be valid, a Request for Exclusion must be timely postmarked by the Response Deadline.

4 19. Every Class Member who does not submit a timely and valid Request for Exclusion
5 is deemed to be a Participating Class Member under the Agreement, entitled to all benefits and
6 bound by all terms and conditions of the Settlement, including the Participating Class Members'
7 Releases under the Agreement, regardless whether the Participating Class Member actually receives
8 the Class Notice or objects to the Settlement.

9 20. Only Participating Class Members may object to the class action components of the
10 Settlement and/or the Agreement, including contesting the fairness of the Settlement, and/or
11 amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment
12 and/or Class Representative Service Payment. Participating Class Members may send written
13 objections to the Administrator by mail. In the alternative, Participating Class Members may appear
14 in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval
15 Hearing. A Participating Class Member who elects to send a written objection to the Administrator
16 must do so not later than 45 days after the Administrator's mailing of the Class Notice (plus an
17 additional 15 days for Class Members whose Class Notice was re mailed).

18 21. If a Settlement Class Member submits an Objection and a Request for Exclusion, the
19 Request for Exclusion will control, and the Objection will be overruled.

20 22. Each Class Member shall have 45 days after the Administrator mails the Class Notice
21 (plus an additional 15 days for Class Members whose Class Notice is re-mailed) to challenge the
22 number of Class Workweeks and PAGA Pay Periods (if any) allocated to the Class Member in the
23 Class Notice. The Class Member may challenge the allocation by communicating with the
24 Administrator via mail.

25 23. Defendant shall fund the Gross Settlement Amount (as the same may be increased
26 pursuant to the Agreement) and Employer Taxes to the Settlement Administrator pursuant to
27 Internal Revenue Code section 1.468B-1 for deposit in an interest-bearing qualified settlement
28 account ("QSA") with an FDIC insured banking institution, for distribution in accordance with the

1 Agreement and the Court's Orders, and subject to the conditions described therein. Defendant shall
2 make 12 installment payments of the Gross Settlement Amount as follows: (1) an initial payment of
3 \$10,000 which shall be due on or before March 1, 2026; (2) 10 subsequent monthly installment
4 payments which shall be due on the 25th day of each month beginning on April 25, 2026 and
5 continuing on the 25th day of each successive month thereafter through and including January 25,
6 2027; and (3) a final payment of \$90,000 shall be due on or before February 25, 2027. If any
7 settlement installment payments are due on a weekend or holiday, the settlement payment shall be
8 due the following business day. Defendant's obligation to make any settlement payments required
9 under the Agreement are expressly conditioned upon the establishment of the designated settlement
10 fund and written confirmation to Counsel for Defendant that such fund has been opened and is
11 capable of receiving settlement payments. No settlement payment shall be due, and Defendant shall
12 not be deemed to breach the Agreement, unless and until seventy-two (72) hours after Defendant's
13 receipt of written confirmation from Plaintiff that the settlement fund has been opened and is able
14 to accept payment. The seventy-two (72) hour period shall exclude weekends and federal holidays.
15 Defendant shall also fund the amounts necessary to fully pay Defendant's share of payroll taxes by
16 transmitting the funds to the Administrator no later than 15 calendar days after the Effective Date.

17 24. Within 7 days after Defendant funds the entire Gross Settlement Amount, the
18 Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments,
19 the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees
20 Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service
21 Payment. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses
22 Payment and the Class Representative Service Payment shall not precede disbursement of Individual
23 Class Payments, and the Individual PAGA Payments.

24 25. For any Class Member whose Individual Class Payment check or Individual PAGA
25 Payment check is uncashed and cancelled after the Void Date (180 days after the date of mailing),
26 the Administrator shall transmit the funds represented by such checks to the California Controller's
27 Unclaimed Property Fund, in the name of the Class Member, thereby leaving no "unpaid residue"
28 subject to the requirements of California Code of Civil Procedure Section 384, subd. (b).

1 26. All papers filed in support of final approval, including supporting documents for
2 attorneys' fees and costs, shall be filed by _____.

3 27. A Final Approval Hearing shall be held with the Court on _____
4 at ____:____.m in Department 1 of the above-entitled Court to determine: (1) whether the proposed
5 settlement is fair, reasonable and adequate, and should be finally approved by the Court; (2) the
6 amount of attorneys' fees and costs to be awarded to Class Counsel; (3) the amounts of service
7 award to the Class Representative; (4) the amount to be paid to the Settlement Administrator; and
8 (5) the amount to be apportioned to PAGA and/or paid to the LWDA and Aggrieved Employees.

9
10 **IT IS SO ORDERED.**

11
12 Dated: _____

Judge of the Superior Court