

HEATHER DAVIS, SBN 239372
heather@protectionlawgroup.com
AMIR NAYEBDADASH, SBN 232204
amir@protectionlawgroup.com
PROTECTION LAW GROUP, LLP
237 California Street
El Segundo, California 90245
Tel.: (424) 290-3095 / Fax: (866) 264-7880

Attorneys for Plaintiff, CARLOS BAHENA

Douglas E. Geyman (SBN 159417)
douglas@geymanlaw.com
LAW OFFICE OF DOUGLAS E. GEYMAN
750 B Street, Suite 2870
San Diego, CA 92101
Telephone: (619) 232-3533

Attorneys for Plaintiff, JOAQUIN GOMEZ

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

CARLOS BAHENA individually and on
behalf of others similarly situated,

Plaintiff,
vs.

NEW WAY LANDSCAPE & TREE
SERVICES a California corporation; NEW
WAY TREE SERVICES, INC, a California
corporation; and DOES 1 through 50,
inclusive,

Defendants.

JOAQUIN GOMEZ, an individual,

Plaintiff,

NEW WAY TREE SERVICES, INC, a
California corporation; KATHRYN M.
DEJON, an individual; RANDY
NEWHARD, an individual and DOES 1
through 10, inclusive,

Defendants.

Case No. 37-2020-00030533-CU-OE-CTL
(Lead Case)

*Assigned for all purposes to the Hon. John S.
Meyer, Dept. C-64*

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

Action Filed: August 31, 2020
Trial Date None Set

Case No. 37-2020-00032057-CU-OE-CTL

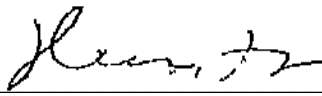
*Assigned for all purposes to the Hon. Richard
E.L. Strauss, Dept. C-75*

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

2 PLEASE TAKE NOTICE that on May 16, 2022, the Honorable John S. Meyer, in
3 Department C64 in the above-entitled Court, located at 330 w. Broadway, San Diego California
4 92101, executed the Proposed Final Order and Judgment. Attached hereto as **Exhibit A** is a true
5 and correct copy of the Final Order and Judgment which was executed and filed on May 16, 2022.

6
7
8 Dated: June 8, 2022

PROTECTION LAW GROUP, LLP

9
10 By: 

11 Heather Davis
12 Amir Nayebdadash
13 *Attorneys for Plaintiff*
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT A

05/16/2022 at 02:50:00 PM

Clerk of the Superior Court
By Melissa Reyes, Deputy Clerk

Heather Davis, SBN 239372
heather@protectionlawgroup.com
PROTECTION LAW GROUP, LLP
237 California Street
El Segundo, California 90245
Telephone: (424) 290-3095

Attorneys for Plaintiff Carlos Bahena

Douglas E. Geyman (SBN 159417)
douglas@geymanlaw.com
LAW OFFICE OF DOUGLAS E. GEYMAN
750 B Street, Suite 2870
San Diego, CA 92101
Tel: (619)232-3533

Attorneys for Plaintiff Joaquin Gomez

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

CARLOS BAHENA individually and on
behalf of others similarly situated,

Plaintiff,

vs.

NEW WAY LANDSCAPE & TREE
SERVICES a California corporation; NEW
WAY TREE SERVICES, INC, a California
corporation; and DOES 1 through 50,
inclusive,

Defendants.

JOAQUIN GOMEZ, an individual,

Plaintiff,

vs.

NEW WAY TREE SERVICES, INC, a
California corporation; KATHRYN M.
DEJON, an individual; RANDY
NEWHARD, an individual and DOES 1
through 10, inclusive,

Defendants.

Case No. 37-2020-00030533-CU-OE-CTL
(lead case)

**~~[PROPOSED]~~ FINAL ORDER AND
JUDGMENT**

Hearing Date: April 29, 2022
Hearing Time: 10:30 a.m.
Dept: C-64

Case No. 37-2020-00032057-CU-OE-CTL

Complaint Filed: September 14, 2020
Consolidated with Case No. 37-2020-
00030533 on September 30, 2021

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

2 The above-referenced Action having come before the Court on April 29, 2022, for a hearing
3 on Plaintiffs' Motion for Final Approval of Class Action and PAGA Settlement. And consistent
4 with the Court's Preliminary Approval Order and as set forth in the Stipulation of Settlement
5 attached to the Declaration of Heather Davis in Support of Plaintiffs' Motion for Final Approval
6 as Exhibit 1 ("Agreement" or "Settlement"). And due and adequate notice having been given to
7 all Class Members as required in the Preliminary Approval Order and the Court having considered
8 all papers filed and proceedings had herein, and otherwise being fully informed, and good cause
9 appearing therefore, it is hereby **ORDERED, ADJUDGED AND DECREED AS FOLLOWS:**

10 1. Pursuant to California law, the Court hereby grants final approval of the Settlement.

11 2. The Court hereby certifies for settlement purposes only the following Class: "All
12 non-exempt employees who worked for Defendants New Way Landscape and Tree Services and
13 New Way Tree Services, Inc. within the State of California at any time between August 31, 2016,
14 and May 27, 2021."

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

17 4. The Court hereby finds the Settlement was entered into in good faith pursuant to
18 and within the meaning of California Code of Civil Procedure section 877.6. For the reasons set
19 forth in the Preliminary Approval Order, and in the proceedings of the Final Approval hearing,
20 which are adopted and incorporated herein by reference, the Court further finds that Plaintiffs have
21 satisfied the standards and applicable requirements for final approval of this class action settlement
22 under California law, including the provisions of California Code of Civil Procedure section 382
23 and Federal Rule of Civil Procedure 23, approved for use by the California state courts in *Vasquez*
24 *v. Superior Court* 4 Cal.3d 800, 821 (1971).

25 5. The Court finds that the Agreement is fair, reasonable and adequate, and directs the
26 Parties to effectuate the Settlement according to its terms. The Court finds that the Settlement has
27 been reached as a result of intensive, serious and non-collusive arms-length negotiations. The
28

1 Court further finds that the Parties have conducted extensive investigation and research, and
2 counsel for the Parties were able to reasonably evaluate their respective positions. The Court also
3 finds that Settlement at this time will avoid additional substantial costs, as well as avoid the delay
4 and risks that would be presented by the further prosecution of the Action. The Court has reviewed
5 the benefits that are being granted as part of the Settlement and recognizes the significant value to
6 the Class Members. The Court also finds and orders that the Agreement constitutes a fair, adequate,
7 and reasonable compromise of the Released Claims against Defendants and the Released Parties.

8 6. The Court hereby confirms Heather Davis and Amir Nayebedadash of Protection
9 Law Group, LLP and Douglas E. Geyman of the Law Office of Douglas E. Geyman. as Class
10 Counsel in the Action.

11 7. The Court concludes that the Settlement Administrator, ILYM Group, Inc, took all
12 reasonable and necessary steps to locate and notify each Class Member of the Agreement, as
13 required in the Preliminary Approval Order. The notice given to the Class fully and accurately
14 informed the Class of all material elements of the Agreement and their opportunity to object or
15 comment thereon; was the best notice practicable under the circumstances; was valid, due and
16 sufficient notice to all Class Members; and complied fully with the laws of the State of California,
17 Federal Rules of Civil Procedure, the United States Constitution, due process, and other applicable
18 law. The notice fairly and adequately described the Settlement and provided Class Members
19 adequate instructions and a variety of means to obtain additional information. A full opportunity
20 has been afforded to Class Members to participate in this hearing, and all persons wishing to be
21 heard have been heard. Accordingly, the Court determines that all Class Members who did not
22 timely and properly request exclusion are bound by this Judgment.

24 8. The Court hereby finds that there have been zero objections to the Settlement. The
25 deadline for Class Members to submit a written objection to the Settlement was March 21, 2022.
26 The Court also finds there were no objections at the hearing on final approval.

27 9. The Court hereby finds that there was 1 request to be excluded from the Settlement.
28 Accordingly, this Class Member, Robert Filipp, is expressly excluded from the settlement and this

Judgment. The deadline for Class Members to submit a request for exclusion was March 21, 2022.

10. Upon the funding of the Total Settlement Amount, all Settlement Class Members shall fully release and discharge Defendants New Way Landscape & Tree Services, New Way Tree Services, Inc., Kathryn DeJong, and Randy Newhard and their past, present, and future parents, subsidiaries, affiliates, divisions, joint ventures, licensees, franchisees, and any other legal entities, whether foreign or domestic, and the past, present, and future shareholders, officers, directors, members, investors, agents, employees, consultants, representatives, fiduciaries, insurers, attorneys, legal representatives, predecessors, successors, and assigns thereof, (the “Released Parties”) from all claims actually alleged or that could have been alleged in the Action by Plaintiffs, on behalf of themselves and the Class Members, based on the facts alleged in the *Bahena* Complaint and the *Gomez* Complaint, including but not limited to: (1) Violation of California Labor Code §§ 510, 1194 and 1198, and IWC Wage Order 4-2001, § 3 (Unpaid Overtime); (2) Violation of California Labor Code §§ 226.7, 510, 512, 1194, 1197, IWC Wage Order 5-2001, § 11, and IWC Wage Order 16-2001, § 10 (Failure to Provide Meal Periods and Unpaid Meal Period Premiums); (3) Violation of California Labor Code §§ 226.7, 512, IWC Wage Order 5-2001, § 12, and IWC Wage Order 16-2001, § 16 (Failure to Provide Rest Periods and Unpaid Rest Period Premiums); (4) Violation of California Labor Code §§ 1194, 1197, and 1197.1, IWC Wage Order 5-2001, § 4, and IWC Wage Order 16, § 4 (Unpaid Minimum Wages); (5) Violation of California Labor Code §§ 201, 202, and 203 (Final Wages Not Timely Paid); (6) Violation of California Labor Code § 204 (Wages Not Timely Paid During Employment); (7) Violation of California Labor Code § 226(a), IWC Wage Order 5-2001, § 7, and IWC Wage Order 16-2001, § 6 (Non-Compliant Wage Statements); (8) Violation of California Labor Code §§ 226, 1174, IWC Order 5-2001, § 7, and IWC Wage Order 16-2001, § 6 (Failure To Keep Requisite Payroll Records); (9) Violation of California Labor Code §§ 2800 and 2802 (Unreimbursed Business Expenses); (10) Violation of California Business & Professions Code §§ 17200, *et seq.*; (10) PAGA Claims; and (11) attorneys’ fees and costs of litigation associated with this Action (“Released Claims) that arose between August 31, 2016, and May27, 2021. (the “Class Period”)

1 11. Except for those claims which cannot be released as a matter of law, upon the
2 funding of the Total Settlement Amount, and in consideration for their Service Awards, Plaintiffs
3 Carlos Bahena and Joaquin Gomez—for themselves only—hereby waive, release, acquit and
4 forever discharge the Released Parties, from any and all claims, actions, charges, complaints,
5 grievances and causes of action, of whatever nature, whether known or unknown, which exist or
6 may exist on Plaintiffs' behalf. Plaintiffs have expressly waived and relinquished any and all
7 claims, rights or benefits that they may have under California Civil Code§ 1542.

8 12. The Court finds the settlement payments provided for under the Settlement to be
9 fair and reasonable in light of all of the circumstances. The Court orders the calculations and the
10 payments to be made and administered in accordance with the terms of the Settlement.

11 13. Defendants New Way Landscape & Tree Services and New Way Tree Services
12 shall pay \$780,000.00 (“Total Settlement Amount”) to provide for class members individual
13 settlement payments, the class representative enhancement payments for Plaintiffs, Class
14 Counsel’s attorney fees and costs, the Settlement Administrator’s fees and expenses, and penalties
15 to the California Labor and Workforce Development Agency and PAGA Group Members pursuant
16 to Labor Code Section 2698 et seq. Defendants shall fund and the Settlement Administrator shall
17 distribute the Total Settlement Amount in accordance with the terms of the Agreement.

18 14. Pursuant to the terms of the Settlement, and the authorities, evidence and argument
19 submitted by Class Counsel, the Court hereby awards Class Counsel attorneys’ fees in the amount
20 of \$252,400.00 and attorneys’ costs in the amount of \$10,799.95 from the Total Settlement
21 Amount as final payment for and complete satisfaction of any and all attorneys’ fees and costs
22 incurred by and/or owed to Class Counsel and any other person or entity related to the Action. The
23 Court further orders that the award of attorneys’ fees and costs set forth in this Paragraph shall be
24 administered pursuant to the terms of the Agreement; any allocation of attorneys’ fees and costs
25 between and among Class Counsel shall be made by the Settlement Administrator pursuant to a
26 separate and independent agreement between Class Counsel.

27 15. The Court also hereby approves and orders the payment of a service award in the
28

1 amount of \$5,000.00 each to Plaintiffs Carlos Bahena and Joaquin Gomez from the Total
2 Settlement Amount.

3 16. The Court also hereby approves and orders payment in the amount of \$37,500.00
4 (75% of \$50,000.00) from the Total Settlement Amount for PAGA penalties, which shall be made
5 payable to the California Labor Workforce Development Agency; the remaining \$12,500.00 (25%
6 of \$50,000.00) shall be distributed to the PAGA Members as set forth in the Agreement.

7 17. The Court also hereby approves and orders payment from the Total Settlement
8 Amount for actual settlement administration expenses incurred by the Settlement Administrator,
9 ILYM Group, Inc., in the amount of \$20,000.00.

10 18. The Court hereby approves and orders payment of individual settlement payments
11 from the Net Settlement Amount to the Settlement Class Members, as set forth in the Agreement.

12 19. The Court also hereby approves and orders that any checks distributed from the
13 Total Settlement Amount yet remaining un-cashed one hundred and eighty (180) calendar days
14 after being issued shall be void. Following expiration of the check cashing period, the Settlement
15 Administrator will remit these funds to the California State Controller's Office Unclaimed
16 Property Fund in the name of the Settlement Class Member who did not negotiate his or her check.

17 20. Provided the Settlement becomes effective under the terms of the Agreement, the
18 Court hereby orders that the deadline for the funding of the settlement and the mailing the Court-
19 approved payments from the Total Settlement Amount as set forth in the Agreement.

20 21. Without affecting the finality of this Judgment, the Court shall retain continuing
21 jurisdiction over this action and the parties, including all Class Members, and over all matters
22 pertaining to the implementation and enforcement of the terms of the Agreement pursuant to
23 California Rule of Court 3.769(h) and California Code of Civil Procedure §664.6. Except as
24 provided herein, any disputes or controversies arising with or with respect to the interpretation,
25 enforcement, or implementation of the Agreement shall be presented to the Court for resolution.

26 22. The Court sets a non-appearance case review for _____, at _____ a.m.
27 in Department C-64 to confirm the full administration of the settlement. Class Counsel shall submit
28

1 a compliance report no later than five (5) court days before the date of the hearing, which shall
2 include the total amount of funds paid to the class members pursuant to the settlement.

3 23. Class Counsel shall submit this signed final order and Judgement to the LWDA
4 within 10 days of receipt of the Order.

5
6 **IT IS SO ORDERED. LET JUDGMENT BE ENTERED ACCORDINGLY.**

7
8 DATED: 5-16-22

9
10 
11 _____
12 JUDGE OF THE SUPERIOR COURT
13 Judge John S. Meyer
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28