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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

JAN 19 2024

BY 
JESSICA MORALES, DEPUTY

8 Attorneys for Plaintiff Alberto Viramontes

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 FOR THE COUNTY OF SAN BERNARDINO

11 ALBERTO VIRAMONTES, individually, and
12 on behalf of other members of the general public
similarly situated, and as an aggrieved employee
pursuant to the Private Attorneys General Act
13 (“PAGA”),

14 Plaintiff,

15 vs.

16 CLS LANDSCAPE MANAGEMENT, INC., a
California corporation; and DOES 1 through 10,
17 inclusive,

18 Defendant.

Case No.: CIVSB2134798

Assigned to the Hon. Jessica Morgan

**~~PROPOSED~~ ORDER AND JUDGMENT
GRANTING MOTION FOR FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT AND MOTION FOR
ATTORNEYS’ FEES, COSTS AND
EXPENSES, AND A CLASS
REPRESENTATIVE ENHANCEMENT
PAYMENT**

Date: January 8, 2024

Time: 8:30 a.m.

Place: Department S26

Complaint Filed: December 21, 2021

Trial Date: None Set

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ORDER AND JUDGMENT

This matter came before the Court for a hearing on the Motion for Final Approval of the Class Action Settlement and Motion for Attorneys' Fees, Costs and Expenses, and a Class Representative Enhancement Payment (collectively, the "Motions"). Due and adequate notice having been given to Class Members as required by the Court's Preliminary Approval Order, and the Court having reviewed the Motions, and determining that the settlement is fair, adequate and reasonable, and otherwise being fully informed and **GOOD CAUSE** appearing therefore, it is hereby **ORDERED AS FOLLOWS**:

1. For the reasons set forth in the Preliminary Approval Order, which are adopted and incorporated herein by reference, this Court finds that the requirements of California Code of Civil Procedure section 382 and rule 3.769 of the California Rules of Court have been satisfied.
2. This Order hereby adopts and incorporates by reference the terms and conditions of the Joint Stipulation of Class Action and PAGA Settlement and Release ("Settlement Agreement" or "Settlement"), together with the definitions and terms used and contained therein.
3. The Court finds that it has jurisdiction over the subject matter of the action and over all parties to the action, including all members of the Settlement Class.
4. The Class Notice fully and accurately informed Class Members of all material elements of the proposed settlement and of their opportunity to opt out or object; was the best notice practicable under the circumstances; was valid, due, and sufficient notice to all Class Members; and complied fully with the laws of the State of California and due process. The Class Notice fairly and adequately described the settlement and provided Class Members with adequate instructions and a variety of means to obtain additional information.
5. Class Members were given a full opportunity to participate in the Final Approval hearing, and all Class Members and other persons wishing to be heard have been heard. Accordingly, the Court determines that all Class Members who did not timely and properly opt out of the settlement are bound by this Order.
6. The Court has considered all relevant factors for determining the fairness of the settlement and has concluded that all such factors weigh in favor of granting final approval. In particular, the Court finds that the settlement was reached following meaningful discovery and investigation

1 conducted by Plaintiff's Counsel; that the settlement is the result of serious, informed, adversarial, and
2 arm's-length negotiations between the Parties; and that the terms of the settlement are in all respects fair,
3 adequate, and reasonable.

4 7. In so finding, the Court has considered all evidence presented, including evidence
5 regarding the strength of Plaintiff's case; the risk, expense, and complexity of the claims presented; the
6 likely duration of further litigation; the amount offered in settlement; the extent of investigation and
7 discovery completed; and the experience and views of counsel. The Parties have provided the Court with
8 sufficient information about the nature and magnitude of the claims being settled, as well as the
9 impediments to recovery, to make an independent assessment of the reasonableness of the terms to
10 which the Parties have agreed.

11 8. Accordingly, the Court hereby approves the settlement as set forth in the Settlement
12 Agreement and expressly finds that the settlement is, in all respects, fair, reasonable, adequate, and in the
13 best interests of the entire Settlement Class and hereby directs implementation of all remaining terms,
14 conditions, and provisions of the Settlement Agreement. The Court also finds that settlement now will
15 avoid additional and potentially substantial litigation costs, as well as delay and risks if the Parties were
16 to continue to litigate the case. Additionally, after considering the monetary recovery provided by the
17 settlement in light of the challenges posed by continued litigation, the Court concludes that the settlement
18 provides Class Members with fair and adequate relief.

19 9. The Settlement Agreement is not an admission by Defendant or by any other Released
20 Party, nor is this Order a finding of the validity of any allegations or of any wrongdoing by Defendant or
21 any other Released Party. Neither this Order, the Settlement Agreement, nor any document referred to
22 herein, nor any action taken to carry out the Settlement Agreement, may be construed as, or may be used
23 as, an admission of any fault, wrongdoing, omission, concession, waiver of defenses, or liability
24 whatsoever by or against Defendant or any of the other Released Parties.

25 10. With the exception of the one individual who opted out of the Settlement Class, final
26 approval shall be with respect to: All persons who were employed by Defendant as non-exempt, hourly
27 paid employees in the State of California at any time during the period from December 21, 2017 through
28 August 10, 2023.

1 11. Plaintiff Alberto Viramontes is an adequate and suitable representative and is hereby
2 appointed the Class Representative for the Settlement Class. The Court finds that Plaintiff's investment
3 and commitment to the litigation and its outcome ensured adequate and zealous advocacy for the
4 Settlement Class, and that his interests are aligned with those of the Settlement Class.

5 12. The Court hereby awards Plaintiff a Class Representative Enhancement Payment of
6 \$10,000 for his service on behalf of the Settlement Class, and for agreeing to a general release of all
7 claims arising out of his employment with Defendant.

8 13. The Court finds that the attorneys at Capstone Law APC have the requisite
9 qualifications, experience, and skill to protect and advance the interests of the Settlement Class. The
10 Court therefore finds that counsel satisfy the professional and ethical obligations attendant to the position
11 of Class Counsel, and hereby appoints Capstone Law APC as counsel for the Settlement Class.

12 14. The settlement of civil penalties under PAGA in the amount of \$25,000 is hereby
13 approved. Seventy-Five Percent (75%), or \$18,750, shall be paid to the California Labor and Workforce
14 Development Agency. The remaining Twenty-Five Percent (25%), or \$6,250, will be paid to PAGA
15 Members.

16 15. The Court hereby awards \$278,333 in attorneys' fees and \$8,473.75 in costs and
17 expenses to Capstone Law APC. The Court finds that the requested award of attorneys' fees is
18 reasonable for a contingency fee in a class action such as this; i.e., one-third of the common fund created
19 by the settlement. Counsel have also established the reasonableness of the requested award of attorneys'
20 fees via their lodestar crosscheck, and the Court finds that the rates, hours billed, and risk multiplier are
21 fair and reasonable.

22 16. The Court approves settlement administration costs and expenses in the amount of
23 \$10,750 to CPT Group, Inc.

24 17. All Class Members were given a full and fair opportunity to participate in the Approval
25 Hearing, and all members of the Settlement Class wishing to be heard have been heard. Members of the
26 Settlement Class also have had a full and fair opportunity to exclude themselves from the proposed
27 settlement and the class. Accordingly, the terms of the Settlement Agreement and of the Court's Order
28 and Judgment shall be forever binding on all Participating Class Members. These Participating Class

1 Members have released and forever discharged the Released Parties for any and all Released Class

2 Claims during the Class Period:

3 All claims, rights, demands, liabilities, and causes of action that were alleged, or
4 reasonably could have been alleged, based on the same set of operative facts as
5 those set forth in the operative complaint during the Class Period, including: (1)
6 Cal. Lab. Code §§ 510 and 1198 (unpaid overtime); (2) Cal. Lab. Code §§
7 1182.12, 1194, 1197, 1197.1, and 1198 (unpaid minimum wages); (3) Cal. Lab.
8 Code §§ 226.7, 512(a), 516, and 1198 (failure to provide meal periods); (4) Cal.
9 Lab. Code §§ 226.7, 516, and 1198 (failure to authorize and permit rest periods);
10 (5) Cal. Lab. Code §§ 226.7, 516, 1198 and California Code of Regulations Title
11 8, Section 3395 (failure to provide heat recovery periods); (6) Cal. Lab. Code §§
12 226(a), 1174(d), and 1198 (non-compliant wage statements and failure to maintain
13 accurate payroll records); (7) Cal. Lab. Code §§ 226(b)-(c), 432, 1198, and 1198.5
14 (failure to produce employment records); (8) Cal. Lab. Code §§ 201 and 202
15 (failure to timely pay final wages not timely paid upon termination); (9) Section
16 204 (failure to timely pay wages during employment); (10) Cal. Lab. Code § 1198
17 and California Code of Regulations Title 8, Section 11050 Subdivision 5(A)
18 (failure to provide reporting time pay); (11) Cal. Lab. Code § 2802 (unreimbursed
19 business expenses); (12) Cal. Lab. Code §§ 2698, *et seq.* (PAGA); (13) California
20 Business & Professions Code §§ 17200, *et seq.* (unlawful business practices); and
21 (14) California Business & Professions Code §§ 17200, *et seq.* (unfair business
22 practices).

14 18. Additionally, all PAGA Members and the LWDA have released and forever discharged
15 the Released Parties for any and all Released PAGA Claims during the PAGA Period: All claims for
16 civil penalties under California Labor Code §§ 2698, *et seq.*, that were brought or could reasonably have
17 been brought based on the facts alleged in Plaintiff's initial (dated November 12, 2021) and amended
18 (dated January 18, 2022) letters to the California LWDA during the PAGA Period.

19 19. Judgment in this matter is entered in accordance with the above findings.

20 20. Without affecting the finality of the Judgment, the Court shall retain exclusive and
21 continuing jurisdiction under California Code of Civil Procedure section 664.6 over the above-captioned
22 action and the parties, including all Participating Settlement Members and PAGA Members, for
23 purposes of enforcing the terms of the Judgment entered herein.

24 21. This document shall constitute a judgment (and separate document constituting said
25 judgment) for purposes of California Rules of Court, Rule 3.769(h).

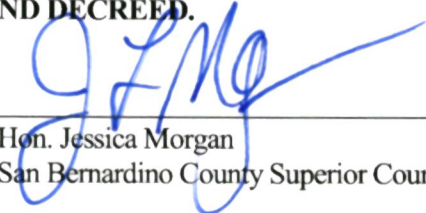
26 22. The Court sets a compliance hearing for April 4, 2025 at 8:30 a.m., at which time the
27 Court will consider evidence that the distribution process is complete and that a final accounting may be
28 approved. Plaintiff shall file a declaration from the Settlement Administrator regarding the completion of

1 settlement administration activities no later than March 10, 2025, as well as an amended judgment
2 regarding the distribution of unclaimed residuals to The California State Bar Justice Gap Fund.
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4 **IT IS SO ORDERED, ADJUDGED, AND DECREED.**

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6 Dated: _____

1/19/24

7 
8 Hon. Jessica Morgan
9 San Bernardino County Superior Court Judge
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