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SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN BERNARDINO  
SAN BERNARDINO DISTRICT

FEB 24 2021

BY   
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10  
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12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
13 **FOR THE COUNTY OF SAN BERNARDINO**

14 ALEJANDRO VALENCIA, JOSE LUISE  
15 ORTEGA, as individuals, on behalf of  
16 himself and all others similarly situated,

17 Plaintiffs,

18 vs.

19 THE ORIGINAL MOWBRAY'S TREE  
20 SERVICE, INCORPORATED, a California  
21 Corporation, and DOES 1-50, inclusive,

22 Defendants.

Case No.: CIVDS1825518

(Consolidated for all purposes with Case No.  
CIVDS1916818)

Assigned for All Purposes to:  
Hon. David Cohn  
Dept. S-26

**[PROPOSED] ORDER GRANTING  
MOTION FOR PRELIMINARY  
APPROVAL OF CLASS AND  
REPRESENTATIVE ACTION  
SETTLEMENT**

Date: February 23, 2021  
Time: 10:00 a.m.  
Dept.: S-26

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1           The Court, having read the papers filed regarding Plaintiffs' unopposed Motion for  
2 Preliminary Approval of Class Action Settlement, and having heard argument regarding the  
3 Motion, hereby finds and ORDERS as follows:

4           1.       The Stipulation of Class Action Settlement and Release ("Joint Stipulation")  
5 attached as Exhibit 1 to the Declaration of Zachary M. Crosner in support of Plaintiffs' Motion for  
6 Preliminary Approval of Class Action Settlement, filed on or about December 7, 2020, is within  
7 the range of possible recovery and, subject to further consideration at the Final Approval Hearing  
8 described below, is preliminarily approved as fair, reasonable, and adequate;

9           2       For purposes of settlement only, the Court provisionally and conditionally certifies  
10 the following class: All individuals employed by defendant The Original Mowbray's Tree Service,  
11 Incorporated ("Mowbray's") as a non-exempt employee performing tree trimming related  
12 activities in the State of California at any time from October 1, 2014 through November 30, 2020;

13           3.       The Court finds the Settlement Class, consisting of at least 1,944 members, is so  
14 numerous that joinder of all members is impracticable, and that the Settlement Class is  
15 ascertainable by reference to the business records of defendant Mowbray's.

16           4.       The Court finds further there are questions of law and fact common to the entire  
17 Settlement Class, which common questions predominate over any individualized questions of law  
18 or fact. These common questions include, without limitation: (1) whether Mowbray's paid  
19 Settlement Class Members for all hours worked, (2) whether Mowbray's provided Settlement  
20 Class Members with all required meal and rest periods, and (3) whether Mowbray's provided  
21 Settlement Class Members with proper itemized wage statements.

22           5.       The Court finds further the claims of named Plaintiffs Alejandro Valencia and Jose  
23 Luis Ortega are typical of the claims of the Settlement Class, and that they will fairly and  
24 adequately protect the interests of the Settlement Class. Accordingly, the Court appoints  
25 Alejandro Valencia and Jose Luis Ortega as the Class Representatives, and appoints their counsel  
26 of record, Zachary M. Crosner, Michael Crosner, and J. Kirk Donnelly and Crosner Legal, P.C.,  
27 Sahag Majarian and Law Offices of Sahag Majarian, II, and Nazo Koulloukian and Koul Law  
28 Firm, as Class Counsel.

1           6.       The Court finds further that certification of the Settlement Class is superior to other  
2 available means for the fair and efficient adjudication of the controversy.

3           7.       The Court finds further that, in the present case, the proposed method of providing  
4 notice of the Settlement to the Settlement Class via First Class U.S. Mail to each Settlement Class  
5 Member's last known address, is reasonably calculated to notify the Settlement Class Members of  
6 the proposed Settlement and provides the best notice possible under the circumstances. The Court  
7 also finds the Notice of Class Action Settlement form, a copy of which is attached to the  
8 Stipulation as Exhibit A and which be issued in both English and Spanish, is sufficient to inform  
9 the Settlement Class Members of the terms of the Settlement and their rights thereunder, including  
10 the right to object to the Settlement or any part thereof and the procedure for doing so, their right  
11 to exclude themselves from the Settlement and the procedure for doing so, their right to obtain a  
12 portion of the Settlement proceeds, and the date, time and location of the Final Approval Hearing.  
13 The proposed Notice of Class Action Settlement and the procedure for providing Notice set forth  
14 in the Stipulation, are approved by the Court.

15           8.       Under the terms of the Stipulation, the Court approves the Parties' selection of  
16 CPT, Inc. as the Settlement Administrator. The Settlement Administrator is ordered to mail the  
17 Class Notice to the Settlement Class Members via First-Class U.S. Mail as specified in the  
18 Stipulation, in both English and Spanish, and to otherwise carry out all other duties set forth in the  
19 Stipulation. The Parties are ordered to carry out and comply with all terms of this Order and the  
20 Stipulation, and particularly with respect to providing the Settlement Administrator all information  
21 necessary to perform its duties under the Stipulation.

22           9.       Any member of the Settlement Class who wishes to comment on or object to the  
23 Settlement or any term thereof, including any proposed award of attorney's fees and costs to Class  
24 Counsel or any proposed representative enhancement to the Class Representative, shall have forty-  
25 five (45) days from the mailing of the Class Notice to submit his or her comments and/or objection  
26 to the Settlement Administrator, as set forth in the Stipulation and Class Notice.

27           10.      A Final Approval Hearing is hereby set for June 15, 2021, at 10:00 a.m. in  
28 Department S-26 of the San Bernardino County Superior Court, to consider any objections to the

1 Settlement, determine if the proposed Settlement should be found fair, adequate and reasonable  
2 and given full and final approval by the Court, and to determine the amount of attorney's fees and  
3 costs awarded to Class Counsel, the amount of any representative enhancement awards to the  
4 Class Representatives, and to approve the fees and costs payable to the Settlement Administrator.  
5 All legal memoranda, affidavits, declarations, or other evidence in support of the request for final  
6 approval, the award of attorney's fees and costs to Class Counsel, the enhancement awards to the  
7 Class Representatives, and the fees and costs of the Settlement Administrator, shall be filed no  
8 later than sixteen (16) court days prior to the Final Approval Hearing. The Court reserves the right  
9 to continue the Final Approval Hearing without further notice to the Settlement Class Members.

10 11. Provided he or she has not submitted a timely and valid Request for Exclusion, any  
11 Settlement Class Member may appear, personally or through his or her own counsel, and be heard  
12 at the Final Approval Hearing regardless of whether he or she has submitted a written objection.

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14 Dated: 2-24-21

DAVID COHEN  
Judge of the Superior Court

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