

FILED

07/17/2023

KIM TURNER, CLERK OF THE COURT
SUPERIOR COURT OF CALIFORNIA,
COUNTY OF MENDOCINO

Ramirez, Taylor

DEPUTY CLERK

Taylor Ramirez

DAVID YEREMIAN & ASSOCIATES, INC.
David Yeremian (SBN 226337)
david@yeremianlaw.com
Alvin B. Lindsay (SBN 220236)
alvin@yeremianlaw.com
2540 Foothill Blvd., Suite 201
La Crescenta, California 91214
Telephone: (818) 230-8380
Facsimile: (818) 230-0308

Attorneys for Plaintiff Luis Gonzalez
on behalf of himself and others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF MENDOCINO

LUIS GONZALEZ, an individual, on behalf
of himself and others similarly situated,

Plaintiff,

vs.

FAMILY TREE SERVICE, INC., a
California corporation, and DOES 1 through
50, inclusive,

Defendants.

Case No.: SCUK-CVPO-2021-75018

CLASS ACTION

Assigned for All Purposes To:

Hon. Jeanine Nadel

Dept.: E

**~~PROPOSED~~ ORDER GRANTING
PLAINTIFF'S UNOPPOSED MOTION
FOR PRELIMINARY APPROVAL OF
CLASS AND PAGA ACTION
SETTLEMENT AGREEMENT AND
RELEASE**

*[Filed concurrently with Notice of Motion and
Motion; Memorandum of Points and Authorities;
and Declarations of Alvin B. Lindsay, David
Yeremian, and Luis Gonzalez]*

Date: ~~July 7, 2023~~ **July 14, 2023**

Time: 9:30 a.m.

Department E

Complaint Filed: January 20, 2021

First Amended Complaint: October 20, 2021

Trial Date: None set.

ORDER

Plaintiff Luis Gonzalez (“Plaintiff”), on behalf of himself and other similarly situated employees of Defendant FAMILY TREE SERVICE (“Defendants”) (collectively, “the parties”), filed an unopposed Motion for Preliminary Approval of the parties’ Class and PAGA Action Settlement Agreement and Release (“Settlement Agreement”). The Motion was set for hearing on July 7, 2023 at 9:30 a.m. in Department E of the Main Courthouse of the Mendocino Superior Court located at 100 North State Street, Ukiah, California, and Defendant does not oppose it. The Court having considered the Settlement Agreement and the proposed Notice of Class and PAGA Action Settlement (“Class Notice”) at Exhibit 1 to the Settlement agreement, the submissions of counsel, and all other papers filed in this litigation, and Defendant’s non-opposition to the Motion, hereby ORDERS as follows:

1. Plaintiff’s Motion for Preliminary Approval of the parties’ Settlement Agreement, which is attached at Exhibit A to the Declaration of Class Counsel, David Yeremian, Esq., is GRANTED;

2. This Order incorporates by reference the definitions in the Settlement Agreement and all terms defined therein shall have the same meaning as in this Order;

3. The Court conditionally certifies a Class consisting of as all non-exempt employees in California who are or previously were employed by Defendant Family Tree Services, Inc. as laborers and ground persons at any time during the Class Period, which is January 20, 2017 through July 22, 2022. “Settlement Class” or “Settlement Class Members” are defined as all Class Members who do not timely submit a signed and valid Opt-Out Request to the Settlement Administrator. Additionally, “PAGA Aggrieved Employee Group” is defined as all Class Members employed by Defendant at any time during the PAGA Period, which is defined as the period from January 20, 2020 through July 22, 2022. (Yeremian Decl., Exhibit A, Settlement, ¶¶ 2, 6, 7, 22, 23, 39). Should the Settlement not be finally approved, this Order will be rendered null and void and shall be vacated, and the fact that the parties were willing to stipulate to class certification as part of the settlement shall have no bearing on, nor be admissible in connection with, the issue of whether a class should be certified in a non-settlement context.

1 Should the settlement not become final, the parties shall revert to their respective positions prior
2 to notifying the Court of the settlement of the action.

3 4. The class action settlement contemplated by the Settlement Agreement is
4 preliminarily approved based upon the terms set forth in the Settlement Agreement. The
5 Settlement appears to be fair, adequate, and reasonable for the Class, and falls within the range of
6 reasonableness that could ultimately be granted final approval by the Court. This approval
7 includes for settlement purposes the approval of David Yeremian and Alvin B. Lindsay of David
8 Yeremian & Associates, Inc. as Class Counsel, Plaintiff Luis Gonzalez as Class Representative,
9 and ILYM Group, Inc. (“ILYM”) as the Settlement Administrator. Class Counsel is authorized to
10 act on behalf of the Class members with respect to all acts or consents required by or which may
11 be given pursuant to the Settlement Agreement and the class action settlement contemplated by
12 the Settlement Agreement, and such other acts reasonably necessary to consummate the
13 settlement. The Settlement Administrator is authorized to perform such acts as set forth in this
14 Order and the Settlement Agreement.

15 5. The Court approves the parties’ allocation of \$20,000.00 to settle claims under the
16 Labor Code Private Attorneys General Act of 2004 (“PAGA”). Pursuant to Labor Code § 2699(i),
17 75% of this amount, or \$15,000.00, shall be paid to the California Labor & Workforce
18 Development agency and the remaining 25%, or \$5,000.00, will become the PAGA Settlement
19 Fund and paid to the PAGA Members in the manner set forth in the Settlement Agreement.
20 (Yeremian Decl., Exhibit A, Settlement, ¶¶ 25, 54, 58.i.).

21 6. The Class Notice (or the “Notice”), attached at Exhibit 1 to the Settlement
22 Agreement at Exhibit A to Class Counsel’s Declaration, advises the Class of the material terms
23 and provisions of this Settlement, the procedure for approval thereof, and their rights with respect
24 thereto, and is approved as to form and content. The Court approves the procedures set forth in
25 the Settlement Agreement for Class Members to participate in, opt out of, and object to the
26 Settlement as set forth in the Notice. The Notice Packet will consist of English and Spanish
27 translation versions of the Class Notice, and the Settlement Administrator is authorized to mail
28 the Notice Packets to Class Members in accordance with the Settlement Agreement.

1 7. The Notice Packet shall be sent by first class mail to the Class in accordance with
2 the schedule set forth in the Settlement Agreement. The dates selected for the mailing and
3 distribution of the Class Notice, and the other dates as set forth below, meet the requirements of
4 due process and provide the best notice practicable under the circumstances, and shall constitute
5 due and sufficient notice to all persons entitled thereto:

6 a. Deadline for Defendant to provide to Settlement Administrator the Class Member
7 data and related information in electronic form: 20 calendar days after entry of the Court's Order
8 granting preliminary approval to the Settlement.

9 b. Deadline for Settlement Administrator to mail the Class Notice by first-class
10 regular U.S. mail: 31 calendar days after entry of the Court's Order granting preliminary approval
11 of the Settlement.

12 c. Deadline for class members to mail objections or requests for exclusion to the
13 Settlement Administrator: 45 calendar days after the mailing of the Class Notice.

14 d. Deadline for Class Counsel to file a Motion for Final Approval of the Settlement
15 Agreement: 16 Court days before hearing on Plaintiff's Motion for Final Approval and Motion
16 for Attorneys' Fees and Costs and Representative Service Award.

17 e. Deadline for Class Counsel to file Motion for Attorneys' Fees and Costs and
18 Representative Service Award: 16 Court days before Final Settlement Fairness Hearing and
19 hearing on Plaintiff's Motion for Final Approval and Motion for Attorneys' Fees and Costs and
20 Representative Enhancement.

21 8. A Final Approval and Settlement Fairness Hearing on the question of whether the
22 proposed Settlement, attorneys' fees and costs to Class Counsel, and the class representative
23 service award and Settlement Administration costs should be approved as fair, reasonable, and
24 adequate as to the Settlement Class and whether the Settlement should be given final approval is
25 scheduled on: 12/1/2023, 2023 at 9:30 a.m. At the final approval hearing, Settlement
26 Class Members may be heard orally in support of the Settlement, or in opposition to the
27 Settlement in the event there are objectors.
28

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

5 10. The Settlement Agreement shall not be construed as an admission or evidence of
6 either liability or the appropriateness of class certification in the non-settlement context, as more
7 specifically set forth in the Settlement Agreement. Entry of this Order is without prejudice to the
8 rights of Defendants to oppose certification of a class in this action should the proposed
9 Settlement not be granted final approval.

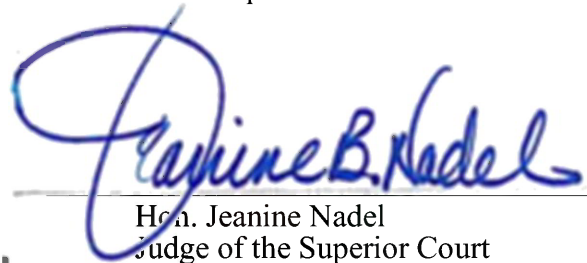
10 11. Upon final approval, Settlement Class Members will release Defendant and
11 Released Parties from the Released Class Claims by the Settlement Class Members for the Class
12 Period. (Yeremian Decl., Exhibit A, Settlement, ¶¶ 7, 31, 32, 34, 52, 53). Similarly for the
13 “Released PAGA Claims,” upon the Effective Date, the Released Parties will be entitled to a
14 release from the State of California, the LWDA, and Plaintiff (as representative of the State of
15 California, the LWDA, and the general public) as to all claims for penalties under the PAGA
16 based on the alleged facts and legal claims in the Complaint and LWDA PAGA Notice Letter, as
17 addressed in the Settlement Agreement. (*Id.* at Settlement, ¶¶ 20, 22, 33, 34, 59).

18 12. All further proceedings in this action are stayed except such proceedings necessary
19 to review, approve, and implement this Settlement.

20 13. The Court finds that all required notifications and submissions to the California
21 Labor and Workforce Development Agency (LWDA) about the Settlement Agreement and
22 Motion have been made by Plaintiff in the time and manner specified under the PAGA.

23 **IT IS SO ORDERED.**

24
25 Dated: July 14, 2023

26 
27 Hon. Jeanine Nadel
28 Judge of the Superior Court