

FILED / ENDORSED

SEP 27 2022

By G. Galaviz, Deputy Clerk

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5 Attorneys for Plaintiff MICHAEL URIBE
6 individually and on behalf of similarly situated employees

7
8 **SUPERIOR COURT OF CALIFORNIA**
9 **FOR THE COUNTY OF SACRAMENTO**
10

11 MICHAEL URIBE, individually and on behalf
12 of all other similarly situated employees,

13 Plaintiff,

14 vs.

15 ECOGUARD PEST MANAGEMENT, INC.,
16 a California Corporation; and DOES 1 to 100,
17 inclusive,

18 Defendants.

Case No. 34-2021-00300650

CLASS ACTION

**PLAINTIFF'S NOTICE OF MOTION AND
MOTION FOR PRELIMINARY APPROVAL
OF CLASS ACTION AND PAGA
SETTLEMENT**

Reservation No.: 2658835

Date: October 21, 2022

Time: 9:00 a.m.

Dept.: 25

Judge: Hon. Jill H. Talley

Filed: May 12, 2021

FAC Filed: August 31, 2021

Trial Date: None Set

BY FAX

1 TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

2 PLEASE TAKE NOTICE that on October 21, 2022, at 9:00 a.m., or as soon thereafter as the
3 matter may be heard in Department 25 of the above-entitled Court, Plaintiff Michael Uribe, individually
4 and on behalf of all other similarly situated individuals, hereby moves for entry of an Order for the
5 following:

- 6 1. Preliminarily certifying the proposed class herein for purposes of settlement only;
- 7 2. Preliminarily appointing Plaintiff Michael Uribe as class representative for purposes of
8 settlement only;
- 9 3. Preliminarily appointing Shimoda & Rodriguez Law, PC, as Class Counsel for purposes of
10 settlement only;
- 11 4. Preliminarily approving the proposed class action settlement, in the amount of \$310,000,
12 which is incorporated herein by reference;
- 13 5. Preliminarily approving the application for payment to Class Counsel of attorneys' fees in
14 the amount of 35% of the Gross Settlement Amount;
- 15 6. Preliminarily approving the application for payment to Class Counsel of reasonable costs not
16 to exceed \$7,500;
- 17 7. Preliminarily and conditionally approving the Class Representative Enhancement Payment of
18 \$15,000 to Plaintiff Michael Uribe;
- 19 8. Preliminarily approving the appointment of ILYM Group, Inc. as the Claims Administrator
20 and for payment to ILYM Group, Inc. for administering said class action settlement in an
21 amount not to exceed \$10,000;
- 22 9. Preliminarily approving the settlement of claims under the Private Attorneys General Act for
23 the total amount of \$10,000, 75% of which will be paid to the Labor and Workforce
24 Development Agency and 25% of which will be paid to Aggrieved Employees;
- 25 10. Approving as to form and content the Notice of Settlement, which provides Class Members
26 information regarding the settlement, their ability to opt out of, or object to, the class action
27 settlement and which provides instruction on how to dispute an individual's settlement
28 allocation under the proposed settlement agreement;

- 1 11. Approving the proposed procedures to notify the class and determining that the proposed
2 notification procedures and process complies with Class Members' due process rights and
3 directing the Notice of Settlement to be sent by first class mail to Class Members;
4 12. Directing Defendant to report employment information, including social security numbers, to
5 the Claims Administrator to administer the settlement proceeds;
6 13. Scheduling a fairness hearing on the question of whether the proposed settlement should be
7 finally approved as fair, reasonable, and adequate;
8 14. Directing that any residue from settlement checks that are not cashed by the check cashing
9 deadline escheat to the State of California Unclaimed Property Fund to be held in the name
10 of each expired check payee, pursuant to applicable unclaimed property laws;
11 15. Preliminarily and conditionally approving and adopting the Proposed Order and its
12 implementation schedule, which is filed herewith and incorporated by reference.

13 This motion is being made pursuant to Code of Civil Procedure section 382, Labor Code section
14 2699(I), and California Rule of Court 3.769 and 3.764, on the grounds that the proposed class action and
15 Private Attorneys General Act settlement is fair, reasonable, and adequate as to all Class Members and
16 Aggrieved Employees and should be approved by the Court. This motion will be based on the notice of
17 motion, memorandum of points and authorities, the Declaration of Brittany V. Berzin, the Declaration of
18 Michael Uribe, exhibits, the record and files of this case, and any further oral or documentary evidence
19 introduced at the hearing of this motion.

20 Pursuant to Local Rule 1.06 (A), the court will make a tentative ruling on the merits of this matter
21 by 2:00 p.m., the court day before the hearing. The complete text of the tentative rulings for the
22 department may be downloaded off the court's website. If the party does not have online access,
23 they may call the dedicated phone number for the department as referenced in the local telephone
directory between the hours of 2:00 p.m. and 4:00 p.m. on the court day before the hearing and
receive the tentative ruling. If you do not call the court and the opposing party by 4:00 p.m. the
court day before the hearing, no hearing will be held.

24 Dated: September 23, 2022

Shimoda & Rodriguez Law, PC

25
26 By: 

Galen T. Shimoda
Justin P. Rodriguez
Brittany V. Berzin
Attorneys for Plaintiff

1 *Uribe v Ecoguard Pest Management, Inc.*
2 *Sacramento County Superior Court of California 34-2021-00300650*

3 **PROOF OF SERVICE — CCP §§ 1013a and 2015.5**
4 **and California Rules of Court, Rule 1.21 and Rule 2.150**

5 I, Estefania Rodriguez, declare that:

6 I am a citizen of the United States and am over the age of eighteen years and not a party to the
7 within above-entitled action.

8 On September 26, 2022, I served the following documents on the party below:

- 9 • Notice of Motion and Motion for Preliminary Approval of Class and PAGA Settlement
- 10 • Memorandum of Points & Authorities In Support of Plaintiff's Motion for Preliminary
11 Approval of Class and PAGA Settlement
- 12 • Declaration of Brittany V. Berzin In Support of Plaintiff's Motion for Preliminary Approval
13 of Class and PAGA Settlement
- 14 • Declaration of Plaintiff Michael Uribe In Support of Motion for Preliminary Approval of
15 Class and PAGA Settlement
- 16 • Exhibit List and Exhibits In Support of Plaintiff's Motion for Preliminary Approval of Class
17 and PAGA Settlement
- 18 • [PROPOSED] Order Granting Plaintiff's Motion for Preliminary Approval of Class and
19 PAGA Settlement

20 Coby Turner (SBN: 266298) 21 Phillip J. Ebsworth (SBN 311026) 22 Seyfarth Shaw LLP 23 400 Capitol Mall Ste. 2350 24 Sacramento, California 95814 25 Phone: (916) 448-0159 26 Facsimile: (916) 288-6333 27 Email: cturner@seyfarth.com pebsworth@seyfarth.com LNinelist@seyfarth.com	
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28 [] [By Mail] I am familiar with my employer's practice for the collection and
processing of correspondence for mailing with the United States Postal
Service and that each day's mail is deposited with the United States Postal
Service that same day in the ordinary course of business. On the date set forth
above, I served the aforementioned document(s) on the parties in said action
by placing a true copy thereof enclosed in a sealed envelope with postage
thereon fully prepaid, for collection and mailing on this date, following
ordinary business practices, at Elk Grove, California, addressed as set forth
above.

[] [By Personal Service] By personally delivering a true copy thereof to the
office of the addressee above.

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[XXX] [By Electronic Mail] I e-mailed the documents(s) to the person(s) shown above. No error was reported by the e-mail service that I used.

[] [By Overnight Courier] By causing a true copy and/or original thereof to be personally delivered via the following overnight courier service: _____.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on September 26, 2022, at Elk Grove, California.



Estefania Rodriguez