

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

JONATHAN AMADOR ACEVEDO,	:	
MITCHELL BRATTON, JEREMY	:	
BUSSE, STEPHEN PULLUM, ERIC	:	
MIGDOL, and JOSE GONZALEZ,	:	CIVIL ACTION NO. 3:13-2529
<i>individually and on behalf of all</i>	:	
<i>other similarly situated,</i>	:	(JUDGE MANNION)
	:	
Plaintiffs,	:	
	:	
v.	:	
	:	
BrightView Landscapes, LLC,	:	
(f/k/a/ THE BRICKMAN GROUP	:	
LTD. LLC,)	:	
	:	
Defendant.	:	

ORDER

In light of the Memorandum issued this same day, **IT IS HEREBY ORDERED THAT** the plaintiffs' amended, unopposed motion for preliminary approval of the parties' settlement agreement, (Doc. [118](#)), is **GRANTED** as follows:

- (1) The State Settlement Class referenced in the parties' amended settlement agreement, (Doc. [118](#)-3), is preliminarily certified as a settlement class, defined as follows:

all individuals who were paid by The Brickman Group for work performed in Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Jersey, New York, North Carolina, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia,

Washington, or Wisconsin and who, at any time between October 8, 2010 and June 8, 2014, were paid a salary, but worked under a pay plan in which they were eligible to receive “fluctuating workweek”-type half-time overtime pay for hours worked over 40 in a workweek (meaning at a rate that decreased with each overtime hour worked, rather than at time-and-a-half their hourly rate), including but not limited to salaried landscape/crew/irrigation Supervisors and those in similarly titled positions;

- (2) All named plaintiffs are preliminarily appointed as class representatives for the State Settlement Class;
- (3) Berger Montague, P.C. and Head Law Firm, LLC are preliminarily approved as class counsel for the State Settlement Class;
- (4) The amended settlement agreement, (Doc. [118](#)-3), is preliminarily approved, subject to final approval at the final fairness hearing;
- (5) Dahl Administration is preliminarily approved as the settlement administrator;
- (6) The proposed class notices and claim forms, attached to the amended settlement agreement as Exhibits A, B, and C are approved and shall be sent out pursuant to the terms of the amended settlement agreement;
- (7) The following schedule and procedures for completing the final approval process as set forth in the parties’ amended settlement agreement are hereby approved as follows:

Defendant to send notice	Within ten (1) days after submission of the settlement agreement to the court
The parties to provide class member information to the settlement administrator	Within fourteen (14) days after the court’s preliminary approval order
Mailing of class notices and claim forms	Within five (5) business days after receipt of class member information

Reminder Notice	Twenty-one (21) days after the settlement administrator initially mails the notices and claims forms
Plaintiffs' motion for approval of attorneys' fees and costs	Twenty-five (25) days after the mailing of notices and claims forms
Objection and exclusion deadline	Thirty (30) days after the initial mailing of notices and claims forms
Claim deadline	Sixty (60) days after the initial mailing of the notices and claims forms
Plaintiffs' Unopposed motion for final approval	Ten (10) business days prior to the final approval hearing
Final approval Hearing	At the court's convenience, but no earlier than 100 days after the court's preliminary approval order [DATE]

- (8) The final approval hearing is hereby preliminarily set for **July 21, 2017 at 9:30 a.m.** in Courtroom 3, William J. Nealon Federal Building & U.S. Courthouse, 235 N. Washington Avenue, Scranton, PA 18501;
- (9) In accordance with the above schedule provided by the parties, **ten (10) business days prior** to the final approval hearing the parties shall file a motion and memoranda in support of final approval of the amended settlement agreement, in addition to seeking final certification of the State Settlement Class and the Collective Group preliminarily certified on February 14, 2014, (Doc. [35](#)).

IT IS FURTHER ORDERED THAT the plaintiffs' original, unopposed motion for preliminary approval of the parties' settlement agreement, (Doc. [104](#)), and the parties joint motion for a hearing to discuss changes to the original agreement, (Doc. [115](#)), are **DENIED** as moot. The Clerk of Court is

also directed to change the name of the defendant in this action from “The Brickman Group Ltd. LLC” to “BrightView Landscapes, LLC, formerly known as The Brickman Group Ltd. LLC,” in light of recent corporate changes.

s/ Malachy E. Mannion
MALACHY E. MANNION
United States District Judge

DATED: March 21, 2017

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