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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN DIEGO

LUIS DE JESUS, an individual, on behalf of
himself and on behalf of all persons similarly
situated,

Plaintiff,

vs.

GUARDIAN ANGEL HOME CARE, INC., a
Michigan Corporation; SAM D. KASSAB; an
individual, and DOES 2-50, Inclusive;

Defendants.

Case No. 37-2020-00021049-CU-OE-CTL

**[PROPOSED] ORDER GRANTING FINAL
APPROVAL**

Date: June 24, 2022

Time: 8:30 a.m.

Judge: Hon. Ronald F. Frazier

Dept.: 65

1 Plaintiff's motion for an order finally approving the Stipulation of Settlement of Class and
2 PAGA Action Claims and Release of Claims ("Agreement") and motion for an award of
3 attorneys' fees, costs and service awards duly came on for hearing on June 24, 2022, before the
4 above-entitled Court. Zakay Law Group, APLC and the JCL Law Firm, APC appeared on behalf
5 of Plaintiff LUIS DE JESUS ("Plaintiff"). Freeman Mathis & Gary, LLP appeared on behalf of
6 Defendant GUARDIAN ANGEL HOME CARE, INC. ("Defendant").

7 **I.**

8 **FINDINGS**

9 Based on the oral and written argument and evidence presented in connection with the
10 motion, the Court makes the following findings:

11 1. All terms used herein shall have the same meaning as defined in the
12 Agreement.

13 2. This Court has jurisdiction over the subject matter of this litigation pending
14 in the California Superior Court for the County of San Diego ("Court"), Case No. 37-2020-
15 00021049-CU-OE-CTL, entitled *De Jesus v. Guardian Angel Home Care*, and over all Parties to
16 this litigation, including the Class.

17 **Preliminary Approval of the Settlement**

18 3. On December 22, 2021, the Court granted preliminary approval of a class-
19 wide settlement. At this same time the court approved certification of a provisional settlement
20 class for settlement purposes only. The Court confirms this Order and finally approves the
21 settlement and the certification of the Class.

22 **Notice to the Class**

23 4. In compliance with the Preliminary Approval Order, the Notice Packet was
24 mailed by first class mail to the Class Members at their last known addresses on March 1, 2022.
25 Mailing of the Notice Packet to their last known addresses was the best notice practicable under
26 the circumstances and was reasonably calculated to communicate actual notice of the litigation
27 and the proposed settlement to the members of the Class Members. The Court finds that the
28 Notice Packet provided fully satisfies the requirements of California Rules of Court, rule 3.769.

1 5. The Response Deadline for opting out or objecting was May 31, 2022.
2 There was an adequate interval between notice and deadline to permit Class Members to choose
3 what to do and act on their decision. No Class Members objected. No Class Members requested
4 exclusion.

5 **Fairness Of The Settlement**

6 6. The Agreement provides for a Total Settlement Amount of \$1,000,000.00.
7 The Agreement is entitled to a presumption of fairness. (*Dunk v. Ford Motor Co.* (1996) 48
8 Cal.App.4th 1794, 1801.)

9 a. The settlement was reached through arms-length bargaining between
10 the parties. There is no evidence of any collusion between the parties in reaching the proposed
11 settlement.

12 b. The Parties' investigation and discovery have been sufficient to
13 allow the Court and counsel to act intelligently.

14 c. Counsel for all parties are experienced in similar employment class
15 action litigation and have previously settled similar class claims on behalf of employees claiming
16 compensation. All counsel recommended approval of the Settlement.

17 d. The percentage of objectors and requests for exclusion is small. No
18 objections were received. One request for exclusion was received. No requests for exclusion were
19 received.

20 e. The participation rate is high. All Class Members will be
21 participating in the Settlement and will be sent settlement payments.

22 7. The consideration to be given to the Class Members under the terms of the
23 Agreement is fair, reasonable, and adequate considering the strengths and weaknesses of the
24 claims asserted in this Action and is fair, reasonable, and adequate compensation for the release of
25 the Released Class Claims, given the uncertainties and risks of the litigation and the delays which
26 would ensue from continued prosecution of the Action.

27 8. The Agreement is finally approved as fair, adequate, and reasonable and in
28 the best interests of the Settlement Class Members.

1 **Attorneys' Fees and Litigation Expenses**

2 9. The Agreement provides for a Class Counsel Award in the amount of Three
3 Hundred Fifty-Three Thousand Three Hundred Thirty-Three Dollars and Zero Cents
4 (\$353,333.00). Subject to Court approval, the Class Counsel Award consists of attorneys' fees
5 equal to one-third (1/3) of the Total Settlement Amount, or Three Hundred Thirty-Three
6 Thousand, Three Hundred Thirty-Three Dollars and Zero Cents (\$333,333.00) and reimbursement
7 of costs and expenses not to exceed Twenty Thousand Dollars and Zero Cents (\$20,000.00).

8 10. A Class Counsel Award of Three Hundred Fifty-Three Thousand, Three
9 Hundred Thirty-Three Dollars and Zero Cents (\$353,333.00), comprised of attorneys' fees in the
10 amount of Three Hundred Thirty-Three Thousand Three Hundred Thirty-Three Dollars and Zero
11 Cents (\$333,333.00) and reimbursement of costs and expenses not to exceed Twenty Thousand
12 Dollars and Zero Cents (\$20,000.00) is reasonable in light of the contingent nature of Class
13 Counsel's fee, the hours worked by Class Counsel, and the results achieved by Class Counsel.
14 The requested attorneys' fee award represents 1/3 of the common fund, which is reasonable and at
15 the low end of the range for fee awards in common fund cases and is supported by Class
16 Counsel's lodestar.

17 **Class Representative Service Award**

18 11. The Agreement provides for a Class Representative Service Award of up to
19 \$10,000 for Plaintiff, Luis De Jesus, subject to the Court's approval. The Court finds that the
20 amounts of \$10,000 is reasonable in light of the risks and burdens undertaken by the Plaintiff in
21 this class action litigation.

22 **Settlement Administration Costs**

23 12. The Agreement provides for Settlement Administration Costs to be paid in
24 an amount not to exceed \$10,000. The Declaration of the Settlement Administrator provides that
25 the actual claims administration expenses were \$10,000. The amount of this payment is
26 reasonable in light of the work performed by the Settlement Administrator.

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1. The Class is certified for the purposes of settlement only. The Settlement Class is hereby defined to include:

The Class Period is the period between April 6, 2016, to May 2, 2019.

3. The Agreement is hereby approved as fair, reasonable, adequate, and in the best interest of the Class. The Parties are ordered to effectuate the Settlement in accordance with this Order and the terms of the Agreement.

5. The payment of service award to the Plaintiff in the amount of \$10,000 is approved.

7. The PAGA Settlement of \$40,000 is approved.

5
FINAL APPROVAL ORDER

1 wages; (2) Failure to pay overtime wages; (3) Failure to provide required meal periods; (4) Failure
2 to provide required rest periods; (5) Failure to provide accurate itemized wage statements; (6)
3 Failure to provide wages when due; and (7) Failure to reimburse for required business expenses;
4 as well as any federal, state or local provisions. To the extent employees are required to “opt-in”
5 to have this release be deemed effective under federal law, the acceptance and negotiation of any
6 settlement check shall be deemed effective for that purpose.

7 9. Final Judgment shall also bind Plaintiff, acting on behalf of the State of
8 California and all Aggrieved Employees, pursuant to the California Private Attorneys’ General
9 Act (“PAGA”) and shall release Defendant any and all PAGA claims alleged in the operative
10 complaint and Plaintiff’s PAGA notice to the LWDA which occurred during the PAGA Period.
11 Expressly excluded from the Released PAGA Claims are any claims that cannot be released by
12 operation of law, including claims for vested benefits, wrongful termination, unemployment
13 insurance, disability, social security, workers' compensation, and PAGA claims outside the PAGA
14 Period.

15 The term “Aggrieved Employees” is hereby defined to include all non-exempt employees
16 who are or previously were employed by Defendant who earned piece-rate compensation in
17 California during the PAGA Period. The PAGA Period means the period between April 6, 2019,
18 to August 2, 2021.

19 10. In addition to the release given by each Settlement Class Member, Plaintiff
20 also generally releases Defendant from any and all of the Plaintiff’s Released Claims as defined in
21 the Agreement. This general release by Plaintiff also includes a waiver of rights under California
22 Civil Code Section 1542.

23 11. The Agreement is not an admission by Defendant, nor is this Final
24 Approval Order and Judgment a finding, of the validity of any claims in the Action or of any
25 wrongdoing by Defendant. Neither this Final Approval Order, the Settlement, nor any document
26 referred to herein, nor any action taken to carry out the Settlement is, may be construed as, or may
27 be used as an admission by or against Defendant of any fault, wrongdoing, or liability whatsoever.
28 The entering into or carrying out of the Agreement, and any negotiations or proceedings related

1 thereto, shall not in any event be construed as, or deemed to be evidence of, an admission or
2 concession with regard to the denials or defenses by Defendant and shall not be offered in
3 evidence in any action or proceeding against Defendant in any court, administrative agency or
4 other tribunal for any purpose as an admission whatsoever other than to enforce the provisions of
5 this Final Approval Order and Judgment, the Settlement, or any related agreement or release.
6 Notwithstanding these restrictions, any of the Parties may file in the Action or in any other
7 proceeding this Final Approval Order and Judgment, the Agreement, or any other papers and
8 records on file in the Action as evidence of the Settlement to support a defense of res judicata,
9 collateral estoppel, release, or other theory of claim or issue preclusion or similar defense as to the
10 claims being released by the Settlement.

11 12. Notice of entry of this Final Approval Order and Judgment shall be given to
12 Class Counsel on behalf of Plaintiff and all Class Members. It shall not be necessary to send
13 notice of entry of this Final Approval Order and Judgment to individual Class Members and the
14 Final Approval Order and Judgment shall be posted on Settlement Administrator's website as
15 indicated in the Notice Packet.

16 13. After entry of Final Judgment, the Court shall retain jurisdiction to construe,
17 interpret, implement, and enforce the Settlement, to hear and resolve any contested challenge to a
18 claim for settlement benefits, and to supervise and adjudicate any dispute arising from or in
19 connection with the distribution of settlement benefits.

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1 14. If the Settlement does not become final and effective in accordance with the
2 terms of the Settlement, resulting in the return and/or retention of the Total Settlement Amount to
3 Defendant consistent with the terms of the Settlement, then this Final Approval Order and
4 Judgment, and all orders entered in connection herewith shall be rendered null and void and shall
5 be vacated.

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7 **IT IS SO ORDERED AND ADJUDGED. LET JUDGMENT BE FORTHWITH**
8 **ENTERED ACCORDINGLY.**

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10 DATED: _____, 2022

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12 _____
13 Hon. Ronald F. Frazier
14 Judge, Superior Court for the State of California,
15 County of San Diego
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