

JCL LAW FIRM, APC

Jean-Claude Lapuyade (State Bar #248676)

Eduardo Garcia (State Bar # 290572)

5440 Morehouse Drive, Suite 3600

San Diego, CA 92121

Telephone: (619) 599-8292

Facsimile: (619) 599-8291

jlapuyade@jcl-lawfirm.com

egarcia@jcl-lawfirm.com

ZAKAY LAW GROUP, APLC

Shani O. Zakay (State Bar #277924)

Jackland Hom (State Bar #327243)

5440 Morehouse Drive, Suite 3600

San Diego, CA 92121

Telephone: (619) 255-9047

Facsimile: (858) 404-9203

shani@zakaylaw.com

jackland@zakaylaw.com

Attorneys for Plaintiff

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,

v.

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] PRELIMINARY
APPROVAL ORDER**

Hearing Date: December 3, 2021

Hearing Time: 8:30am

Honorable Judge Ronald Frazier
Department: 65

Trial Date: Not Set

Action Filed: June 18, 2020

1 The Motion for Preliminary Approval of Class Action Settlement by Plaintiff Luis De
2 Jesus (“Plaintiff”) came on for hearing before this Court, the Honorable Ronald F. Frazier
3 presiding. The Court, having considered the papers submitted in support of the motion,
4

HEREBY ORDERS THE FOLLOWING:

5 1. The Court grants preliminary approval to the Settlement based on the terms set
6 forth in Class Action Settlement Agreement (“Agreement”). This Order incorporates by
7 reference the definitions in the Agreement, and all terms defined therein shall have the same
8 meaning in this Order as set forth in the Agreement.

9 2. The Settlement provides for Defendant Guardian Angel Home Care, Inc.
10 (“Defendant”) to pay the Gross Settlement Amount of One Million Dollars (\$1,000,000). The
11 Court preliminarily finds that the Settlement is fair, adequate, and reasonable to the Class, and
12 preliminarily approves the terms of the settlement. This preliminary approval is subject to the
13 objections of Class Members and final review by the Court.

14 3. A Final Approval Hearing shall be held before this Court on _____ at
15 1:30 p.m. in Department 65 of the Superior Court of the State of California for the County of San
16 Diego, to determine all necessary matters concerning the Settlement, including: whether the
17 proposed settlement of the Action on the terms and conditions provided for in the Settlement is
18 fair, adequate, and reasonable and should be finally approved by the Court; whether an Order
19 Granting Final Approval should be entered; whether the plan of allocation contained in the
20 Settlement should be approved as fair, adequate, and reasonable to the Class Members; and
21 whether to finally approve the PAGA payment, the Class Counsel Fees Payment, the Class
22 Counsel Litigation Expenses Payment, the Class Representative Service Payments to the
23 Plaintiffs, and Settlement Administration Expenses. The motion for final approval and the
24 motion for award of attorneys’ fees and costs shall be filed no later than sixteen (16) court days
25 before the Final Approval Hearing.

26 4. The Court recognizes that Plaintiff and Defendant stipulate and agree to
27 certification of the Class for settlement purposes only. This stipulation will not be deemed
28 admissible in this or any other proceeding should this Settlement not become final. Whether or

1 not the settlement is finally approved, neither the Agreement, nor any document, statement,
2 proceeding or conduct related to the Agreement may be admitted in any proceeding as an
3 admission by Defendant or any of the Released Parties, Plaintiff, or any person within the
4 definition of the Class.

5 5. For settlement purposes only, the Court certifies the following Class: “all
6 employees who are or previously were employed by Defendant who earned piece-rate
7 compensation in California during the Class Period, defined as April 6, 2016 to August 2, 2021.”

8 6. The Court preliminarily approves Plaintiff as the representative of the Class. The
9 Court preliminarily approves Zakay Law Group, APC, and The JCL Law Firm, APC as counsel
10 for the Class (“Class Counsel”).

11 7. The Agreement specifies for an attorneys’ fees award not to exceed one-third
12 (1/3) of the Gross Settlement Amount, an award of litigation expenses incurred, not to exceed
13 \$25,000, proposed Class Representative Service Payment to Plaintiff in an amount not to exceed
14 \$10,000, and proposed PAGA payment to the LWDA in an amount not to exceed \$40,000 (75%
15 of which shall be payable to the State of California, and 25% of which shall be payable to the
16 Class). While these awards appear to be within the range of reasonableness, the Court will not
17 approve the amount of attorneys’ fees and costs until the Final Approval Hearing. Similarly, the
18 Court will not decide the amount of any Class Representative Service Payment until the Final
19 Approval Hearing. Plaintiff will be required to present evidence supporting these requests,
20 including lodestar, prior to final approval.

21 8. The Court hereby approves, as to form and content, the Class Notice attached as
22 Exhibit A to the Agreement. The Court finds that the distribution of the Class Notice
23 substantially in the manner and form set forth in the Agreement and this Order meets the
24 requirements of due process, is the best notice practicable under the circumstances, and shall
25 constitute due and sufficient notice to all persons entitled thereto.

26 9. The Court hereby approves on a preliminary basis the Gross Settlement Amount
27 as provided for in the Agreement. It appears to the Court on a preliminary basis that the
28 settlement amount and terms are fair, adequate, and reasonable as to all potential Class Members

1 when balanced against the probable outcome of further litigation relating to liability and
2 damages issues. It further appears that investigation and research have been conducted such that
3 counsel for the Parties at this time are able to reasonably evaluate their respective positions. It
4 further appears to the Court that settlement at this time will avoid substantial additional costs by
5 all Parties, as well as avoid the delay and risks that would be presented by the further prosecution
6 of the Actions. It further appears that the Settlement has been reached as the result of intensive,
7 serious and non-collusive, arms-length negotiations before an experienced mediator.

8 10. The Court hereby appoints ILYM Group as Settlement Administrator. Within 14
9 days of this Order, Defendant will provide to the Settlement Administrator an electronic database
10 containing each Class Member's Class Data. No later than 14 days after receiving the Class
11 Data, the Settlement Administrator will mail the Class Notice Packets to all Class Members via
12 first-class regular U.S. Mail to their last known address.

13 11. Any Class Member may choose to opt out of and be excluded from the Class as
14 provided in the Class Notice by following the instructions for requesting exclusion from the
15 Class that are set forth in the Class Notice. All requests for exclusion must be submitted within
16 ninety (90) days from the date the Class Notice is first mailed. Any such person who chooses to
17 opt out of and be excluded from the Class will not be entitled to any recovery under the
18 Settlement and will not be bound by the Settlement or have any right to object, appeal, or
19 comment thereon. Any written request to opt out must comply with the instructions in the Class
20 Notice and be signed by each such person opting out. Class Members who have not validly
21 requested exclusion shall be bound by all determinations of the Court, the Agreement, and the
22 Judgment.

23 12. Any Class Member who has not opted out may appear at the final approval
24 hearing and may object or express their views regarding the Settlement, and may present
25 evidence and file briefs or other papers that may be proper and relevant to the issues to be heard
26 and determined by the Court as provided in the Class Notice. Class Members will have ninety
27 (90) days from the date the Class Notices are mailed to postmark their written objections to the
28 Settlement Administrator. Class Members who fail to timely submit objections in the manner

1 specified above shall be deemed to have waived any objections and shall be foreclosed from
2 making any written objection (whether by appeal or otherwise) to the Settlement. Class
3 Members who fail to timely submit a written objection may still appear at the Final Approval
4 Hearing to object orally in person.

5 13. The Settlement is not a concession or admission, and shall not be used against
6 Defendant as an admission or indication with respect to any claim of any fault or omission by
7 Defendant. Whether or not the Settlement is finally approved, neither the Settlement, nor any
8 document, statement, proceeding or conduct related to the Settlement, nor any reports or
9 accounts thereof, shall in any event be construed as, offered or admitted in evidence as, received
10 as or deemed to be evidence for any purpose adverse to the Defendant, including, but not limited
11 to, evidence of a presumption, concession, indication or admission by Defendant of any liability,
12 fault, wrongdoing, omission, concession, or damage.

13 14. In the event the Settlement does not become effective in accordance with the
14 terms of the Agreement, or the Settlement is not finally approved, or is terminated, canceled or
15 fails to become effective for any reason, this Order shall be rendered null and void and shall be
16 vacated, and the Parties shall revert to their respective positions as of before entering into the
17 Agreement.

18 15. The Court reserves the right to adjourn or continue the date of the final approval
19 hearing and all dates provided for in the Agreement without further notice to Class Members,
20 and retains jurisdiction to consider all further applications arising out of or connected with the
21 proposed Settlement.

22 **IT IS SO ORDERED.**

23
24 Dated: _____

25 HON. RONALD F. FRAZIER
26 JUDGE, SUPERIOR COURT OF
27 CALIFORNIA, COUNTY OF SAN DIEGO
28