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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

MARCOS ANTONIOS, on behalf of the State
of California, as a private attorney general, and
as an individual, on behalf of himself and on
behalf of all persons similarly situated,

Plaintiff,

vs.

REHABCARE GROUP EAST, LLC., a
California Limited Liability Company; and
Does 1 through 50, Inclusive,

Defendants.

CASE NO.: 21STCV15497
[Consolidated with Case No. 21STCV15647]

**[PROPOSED] PRELIMINARY
APPROVAL ORDER**

Hearing Date: July 12, 2023
Hearing Time: 9:00 a.m.

Judge: Hon. Elihu Berle
Dept: SS-6

Date Filed: April 23, 2021
Trial Date: Not set

This matter came before the Honorable Elihu Berle of the Superior Court of the State of California, in and for the County Los Angeles, on July 12, 2023, for hearing on the unopposed motion by Plaintiff Marcos Antonios (“Plaintiff”) for preliminary approval of the Settlement with Defendant Rehabcare Group East, LLC (“Defendant”). The Court, having considered the briefs,

PRELIMINARY APPROVAL ORDER

1 argument of counsel and all matters presented to the Court and good cause appearing, hereby
2 GRANTS Plaintiff's Motion for Preliminary Approval of Class Action Settlement.

3
4 **IT IS HEREBY ORDERED:**

5 1. The Court preliminarily approves the Class Action and PAGA Settlement
6 Agreement ("Agreement") attached as Exhibit #1 to the Declaration of Kyle Nordrehaug in
7 Support of Plaintiff's Motion for Preliminary Approval of Class Action Settlement. This is based
8 on the Court's determination that the Settlement set forth in the Agreement is within the range of
9 possible final approval, pursuant to the provisions of Section 382 of the California Code of Civil
10 Procedure and California Rules of Court, rule 3.769.

11 2. This Order incorporates by reference the definitions in the Agreement, and all
12 terms defined therein shall have the same meaning in this Order as set forth in the Agreement.

13 3. The Gross Settlement Amount that Defendants shall pay is Four Hundred Ninety
14 Thousand Dollars (\$490,000). It appears to the Court on a preliminary basis that the settlement
15 amount and terms are fair, adequate and reasonable as to all potential Class Members when
16 balanced against the probable outcome of further litigation and the significant risks relating to
17 certification, liability and damages issues. It further appears that investigation and research have
18 been conducted such that counsel for the Parties are able to reasonably evaluate their respective
19 positions. It further appears to the Court that the Settlement will avoid substantial additional costs
20 by all Parties, as well as avoid the delay and risks that would be presented by the further
21 prosecution of the Action. It further appears that the Settlement has been reached as the result of
22 serious and non-collusive, arms-length negotiations.

23 4. The Court preliminarily finds that the Settlement appears to be within the range of
24 reasonableness of a settlement that could ultimately be given final approval by this Court. The
25 Court has reviewed the monetary recovery that is being granted as part of the Settlement and
26 preliminarily finds that the monetary settlement awards made available to the Class is fair,

adequate, and reasonable when balanced against the probable outcome of further litigation and the significant risks relating to certification, liability, and damages issues.

5. The Agreement specifies for an attorneys' fees award not to exceed one-third of the Gross Settlement Amount, an award of litigation expenses incurred, not to exceed \$22,000, and proposed Class Representative Service Payment to the Plaintiff in an amount not to exceed \$10,000. The Court will not approve the amount of attorneys' fees and costs, nor the amount of any service award, until the Final Approval Hearing. Plaintiff will be required to present evidence supporting these requests, including lodestar, prior to final approval.

6. The Court recognizes that Plaintiff and Defendant stipulate and agree to representative treatment and certification of a class for settlement purposes only. This stipulation will not be deemed admissible in this or any other proceeding should this Settlement not become final. For settlement purposes only, the Court conditionally certifies the Class which consists of "all individuals who (1) are or previously worked for Defendant Rehabcare Group East LLC in California who were hourly paid employees and who worked at any time during the Class Period, including those who worked in one or more of the following positions: Physical Therapists, Occupational Therapists, Speech Language Pathologists, Rehab Technicians, Rehab Administrative Assistants, Program Assistants, Rehab Administrative Assistant PRNs, Program Assistant PRNs, Occupational Therapist PRNs, Physical Therapist PRNs, Certified Occupational Therapy Assistants, Physical Therapy Assistants, Program Manager, Program Director 1 RTs, Physical Therapy Assistant PRNs, Certified Occupational Therapy Assistant PRNs, Rehab Technician PRNs, Speech Language Pathologist PRNs, Program Director 1 PTs, Program Direct 1 SLPs, Program Director PRN, Wellness Center Coordinator PRNs, Wellness Center Coordinator NEs, Wellness Program Coordinators, Program Director 1 OTs, Program Director 1 COTAs, RCL PTAs, Rehab Agency Administrator NEs, Rehab Agency Coordinator NEs, Program Director 3 Rehab Tech, and Program Director 1, and (2) excluding claims for the Class Period for those individuals who worked for Defendant in California during that time and participated in the

1 *Stonehocker* settlement, California Northern District Case No. 4:19-cv-02494-YGR.” The “Class
2 Period” is April 26, 2017 through November 30, 2020.

3 7. The Court concludes that, for settlement purposes only, the Class meets the
4 requirements for certification under section 382 of the California Code of Civil Procedure in that:
5 (a) the Class is ascertainable and so numerous that joinder of all members of the Class is
6 impracticable; (b) common questions of law and fact predominate, and there is a well-defined
7 community of interest amongst the members of the Class with respect to the subject matter of the
8 litigation; (c) the claims of the Plaintiff are typical of the claims of the members of the Class; (d)
9 the Plaintiff will fairly and adequately protect the interests of the members of the Class; (e) a class
10 action is superior to other available methods for the efficient adjudication of this controversy; and
11 (f) counsel for the Class is qualified to act as counsel for the Class and the Plaintiff is an adequate
12 representative of the Class.

13 8. The Court provisionally appoints Plaintiff as the representatives of the Class. The
14 Court provisionally appoints Norman B. Blumenthal, Kyle R. Nordrehaug, Aparajit Bhowmik,
15 and Christine T. LeVu of Blumenthal Nordrehaug Bhowmik De Blouw LLP as Class Counsel for
16 the Class.

17 9. The Agreement provides for a PAGA Penalties out of the Gross Settlement
18 Amount of \$5,000, which shall be allocated \$3,750 to the Labor & Workforce Development
19 Agency (“LWDA”) as the LWDA’s 75% share of the settlement of civil penalties paid under this
20 Agreement pursuant to the PAGA and \$1,250 to the Aggrieved Employees. “Aggrieved
21 Employees” are all individuals who were employed by Defendant in California who were
22 classified as hourly paid employee at any time during the PAGA Period (December 4, 2019
23 through November 30, 2020), including those who worked in one or more of the following
24 positions: Physical Therapists, Occupational Therapists, Speech Language Pathologists, Rehab
25 Technicians, Rehab Administrative Assistants, Program Assistants, Rehab Administrative
26 Assistant PRNs, Program Assistant PRNs, Occupational Therapist PRNs, Physical Therapist
27 PRNs, Certified Occupational Therapy Assistants, Physical Therapy Assistants, Program
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1 Manager, Program Director 1 RTs, Physical Therapy Assistant PRNs, Certified Occupational
2 Therapy Assistant PRNs, Rehab Technician PRNs, Speech Language Pathologist PRNs, Program
3 Director 1 PTs, Program Direct 1 SLPs, Program Director PRN, Wellness Center Coordinator
4 PRNs, Wellness Center Coordinator NEs, Wellness Program Coordinators, Program Director 1
5 OTs, Program Director 1 COTAs, RCL PTAs, Rehab Agency Administrator NEs, Rehab Agency
6 Coordinator NEs, Program Director 3 Rehab Tech, and Program Director 1, and (2) excluding
7 claims for the Class Period for those individuals who worked for Defendant in California during
8 that time and participated in the *Stonehocker* settlement, California Northern District Case No.
9 4:19-cv-02494-YGR. Pursuant to Labor Code section 2699, subdivision (l)(2), the LWDA will be
10 provided notice of the Agreement and these settlement terms. The Court finds the PAGA
11 Penalties to be reasonable.

12 10. The Court hereby approves, as to form and content, the Class Notice attached to the
13 Agreement as Exhibit A. The Court finds that the Class Notice appears to fully and accurately
14 inform the Class of all material elements of the proposed Settlement, of the Class Members' right
15 to be excluded from the Class by submitting a written opt-out request, and of each member's right
16 and opportunity to object to the Settlement. The Court further finds that the distribution of the
17 Class Notice substantially in the manner and form set forth in the Agreement and this Order meets
18 the requirements of due process, is the best notice practicable under the circumstances, and shall
19 constitute due and sufficient notice to all persons entitled thereto. The Court orders the mailing of
20 the Class Notice by first class mail pursuant to the terms set forth in the Agreement. If a Class
21 Notice Packet is returned because of an incorrect address, the Administrator will promptly search
22 for a more current address for the Class Member and re-mail the Class Notice Packet to any new
23 address for the Class Member no later than seven (7) days after the receipt of the undelivered
24 Class Notice.

25 11. The Court hereby appoints ILYM Group as the Administrator. No later than thirty
26 (30) days after this Order, Defendant will provide the Class Data to the Administrator. The
27 Administrator will perform address updates and verifications as necessary prior to the first
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1 mailing. Using best efforts to mail it as soon as possible, and in no event later than fourteen (14)
2 days after receiving the Class Data, the Administrator will mail the Class Notice Packet to all
3 Class Members via first-class regular U.S. Mail to their last known address.

4 12. The Court hereby preliminarily approves the proposed procedure for exclusion
5 from the Settlement. Any Class Member may individually choose to opt out of and be excluded
6 from the Class as provided in the Class Notice by submitting their request to the Administrator in
7 accordance with the instructions for requesting exclusion from the Class that are set forth in the
8 Class Notice. All requests for exclusion must be postmarked or received no later than sixty (60)
9 calendar days after the date of the mailing of the Class Notice (“Response Deadline”). If a Class
10 Notice Packet is re-mailed, the Response Deadline for requests for exclusion will be extended an
11 additional fourteen (14) days. A Request for Exclusion may also be faxed or emailed to the
12 Administrator as indicated in the Class Notice. Any such person who chooses to opt out of and be
13 excluded from the Class will not be entitled to any recovery under the Class Settlement and will
14 not be bound by the Class Settlement or have any right to object, appeal or comment thereon.
15 Class Members who have not requested exclusion shall be bound by all determinations of the
16 Court, the Agreement and the Judgment. A request for exclusion may only opt out that particular
17 individual, and any attempt to effect an opt-out of a group, class, or subclass of individuals is not
18 permitted and will be deemed invalid.

19 13. Any Class Member who has not opted out may appear at the final approval hearing
20 and may object or express the Member’s views regarding the Settlement, and may present
21 evidence and file briefs or other papers that may be proper and relevant to the issues to be heard
22 and determined by the Court as provided in the Class Notice. Class Members will have until the
23 Response Deadline to submit their written objections to the Administrator. Written objections
24 may also be faxed or emailed to the Administrator as indicated in the Class Notice. If a Class
25 Notice Packet is re-mailed, the Response Deadline for written objections will be extended an
26 additional fourteen (14) days. Alternatively, Class Members may appear at the Final Approval
27 Hearing to make an oral objection.

1 14. A final approval hearing shall be held before this Court on _____
2 _____ at _____ in Department 6 at the Spring Street Courthouse of the Los
3 Angeles County Superior Court to hear the motion for final approval and the motion for attorneys'
4 fees and costs, and to determine all necessary matters concerning the Settlement, including:
5 whether the proposed settlement of the Action on the terms and conditions provided for in the
6 Agreement is fair, adequate and reasonable and should be finally approved by the Court; whether
7 the Final Approval Order and Judgment should be entered herein; whether the plan of allocation
8 contained in the Agreement should be approved as fair, adequate and reasonable to the Class
9 Members; and to finally approve attorneys' fees and costs, service award, and the fees and
10 expenses of the Administrator. All papers in support of the motion for final approval and the
11 motion for attorneys' fees, costs and service award shall be filed with the Court and served on all
12 counsel no later than sixteen (16) court days before the hearing and both motions shall be heard at
13 this final approval hearing.

14 15. Neither the Settlement nor any exhibit, document, or instrument delivered
15 thereunder shall be construed as a concession or admission by Defendant in any way that the
16 claims asserted have any merit or that this Action was properly brought as a class or representative
17 action, and shall not be used as evidence of, or used against Defendant as, an admission or
18 indication in any way, including with respect to any claim of any liability, wrongdoing, fault or
19 omission by Defendant or with respect to the truth of any allegation asserted by any person.
20 Whether or not the Settlement is finally approved, neither the Settlement, nor any exhibit,
21 document, statement, proceeding or conduct related to the Settlement, nor any reports or accounts
22 thereof, shall in any event be construed as, offered or admitted in evidence as, received as or
23 deemed to be evidence for any purpose adverse to the Defendant, including, but not limited to,
24 evidence of a presumption, concession, indication or admission by Defendant of any liability,
25 fault, wrongdoing, omission, concession or damage.

26 16. In the event the Settlement does not become effective in accordance with the terms
27 of the Agreement, or the Settlement is not finally approved, or is terminated, canceled or fails to
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1 become effective for any reason, this Order shall be rendered null and void and shall be vacated,
2 and the Parties shall revert to their respective positions as of before entering into the Agreement,
3 and expressly reserve their respective rights regarding the prosecution and defense of this Action,
4 including all available defenses and affirmative defenses, and arguments that any claim in the
5 Action could not be certified as a class action and/or managed as a representative action . In such
6 an event, the Court's orders regarding the Settlement, including this Order, shall not be used or
7 referred to in litigation for any purpose. Nothing in this paragraph is intended to alter the terms of
8 the Agreement with respect to the effect of the Agreement if it is not approved.

9 17. The Court reserves the right to adjourn or continue the date of the final approval
10 hearing and all dates provided for in the Agreement without further notice to Class Members and
11 retains jurisdiction to consider all further applications arising out of or connected with the
12 proposed Settlement.

13 **IT IS SO ORDERED.**

14
15 Dated: _____

16
17 _____
HON. ELIHU BERLE
JUDGE OF THE SUPERIOR COURT OF CALIFORNIA