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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

FERNANDO G. HERRERA, individually and
on behalf of all others similarly situated,

Plaintiffs,

vs.

ST. PAUL'S EPISCOPAL HOME, INC.; and
DOES 1 through 20, inclusive,

Defendants.

CASE NO.: **37-2021-00050163-CU-OE-CTL**
[Consolidated with Case No. 37-2022-
00022641-CU-OE-CTL and Case No. 37-
2023-00002553-CU-OE-CTL]

**[PROPOSED] PRELIMINARY
APPROVAL ORDER**

Hearing Date: April 4, 2025

Hearing Time: 8:30 a.m.

Judge: Hon. Blaine K. Bowman

Dept.: 74

Date Action Filed: February 10, 2022

Trial Date: Not set

1 This matter, having come before the Honorable Blaine K. Bowman of the Superior Court
2 of the State of California, in and for the County San Diego, on April 4, 2025, for the motion by
3 Plaintiffs Fernando Herrera, Victoria Garcia, and Martha Ayala (“Plaintiffs”) for preliminary
4 approval of the class settlement with Defendants St. Paul’s Episcopal Home, Inc. (including St.
5 Paul’s Senior Homes and Services, St. Paul’s Senior Services, St. Paul’s Manor, St Paul’s Villa,
6 St. Paul’s Plaza, St. Paul’s McColl Health Center, St. Paul’s Community Care Center, St. Paul’s
7 Senior Day Services, St. Paul’s Child Care Services, St. Paul’s Villa, Inc., and/or St. Paul’s
8 Retirement Homes Foundation) and Community Eldercare of San Diego, Inc. (dba St. Paul’s
9 PACE) (all collectively referred to as “Defendants”). The Court, having considered the briefs,
10 argument of counsel and all matters presented to the Court and good cause appearing, hereby
11 GRANTS Plaintiffs’ Motion for Preliminary Approval of Class Action Settlement.

12 **IT IS HEREBY ORDERED:**

13 1. The Court preliminarily approves the Class Action and PAGA Settlement
14 Agreement (“Agreement”) attached as Exhibit #1 to the Declaration of Kyle Nordrehaug in
15 Support of Plaintiffs’ Motion for Preliminary Approval of Class Action Settlement. This is based
16 on the Court’s determination that the Settlement set forth in the Agreement is within the range of
17 possible final approval, pursuant to the provisions of Section 382 of the California Code of Civil
18 Procedure and California Rules of Court, rule 3.769.

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

21 3. The Gross Settlement Amount is One Million Two-Hundred Fifty Thousand
22 Dollars (\$1,250,000). It appears to the Court on a preliminary basis that the settlement amount
23 and terms are fair, adequate and reasonable as to all potential Class Members when balanced
24 against the probable outcome of further litigation and the significant risks relating to certification,
25 liability and damages issues. It further appears that investigation and research have been
26 conducted such that counsel for the Parties are able to reasonably evaluate their respective
27 positions. It further appears to the Court that settlement at this time will avoid substantial
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1 additional costs by all Parties, as well as avoid the delay and risks that would be presented by the
2 further prosecution of the Action. It further appears that the Settlement has been reached as the
3 result of serious and non-collusive, arms-length negotiations. The Court therefore preliminarily
4 finds that the Settlement is fair, adequate, and reasonable when balanced against the probable
5 outcome of further litigation and the significant risks relating to certification, liability, and
6 damages issues.

7 4. The Agreement specifies an attorneys' fees award not to exceed one-third of the
8 Gross Settlement Amount, an award of litigation expenses incurred, not to exceed \$36,000, and
9 proposed Class Representative Service Payments to the Plaintiffs in an amount not to exceed
10 \$15,000 each. The Court will not approve the amount of attorneys' fees and costs, nor the amount
11 of any service award, until the Final Approval Hearing.

12 5. The Court recognizes that Plaintiffs and Defendants stipulate and agree to
13 certification of a class for settlement purposes only. This stipulation will not be deemed
14 admissible in this or any other proceeding should this Settlement not become final. For settlement
15 purposes only, the Court conditionally certifies the following Class: "any and all non-exempt
16 employees who worked for Defendants during the Class Period (i.e. November 30, 2017 to
17 September 21, 2024), and did not sign an arbitration agreement containing a class action waiver or
18 who signed arbitration agreements that contained the same language as in the arbitration
19 agreements signed by Plaintiffs Herrera and Ayala."

20 6. The Court concludes that, for settlement purposes only, the Class meets the
21 requirements for certification under section 382 of the California Code of Civil Procedure in that:
22 (a) the Class is ascertainable and so numerous that joinder of all members of the Class is
23 impracticable; (b) common questions of law and fact predominate, and there is a well-defined
24 community of interest amongst the members of the Class with respect to the subject matter of the
25 litigation; (c) the claims of the Plaintiffs are typical of the claims of the members of the Class; (d)
26 the Plaintiffs can fairly and adequately protect the interests of the members of the Class; (e) a class
27 action is superior to other available methods for the efficient resolution of this controversy; and (f)

1 counsel for the Class is qualified to act as counsel for the Class and the Plaintiffs are adequate
2 representatives of the Class.

3 7. The Court provisionally appoints Plaintiffs as the representatives of the Class. The
4 Court provisionally appoints Blumenthal Nordrehaug Bhowmik De Blouw LLP, Aegis Law Firm,
5 PC, and Parker & Minne, LLP as Class Counsel for the Class.

6 8. The Court hereby approves, as to form and content, the Court Approved Notice of
7 Proposed Settlement of Class Action and Hearing Date for Final Court Approval (“Class Notice”)
8 attached to the Agreement as Exhibit A. The Court finds that the Class Notice appears to fully and
9 accurately inform the Class of all material elements of the proposed Settlement, of the Class
10 Members’ right to be excluded from the Class by submitting a written opt-out request, and of each
11 Class Member’s right and opportunity to object to the Settlement. The Court further finds that the
12 distribution of the Class Notice substantially in the manner and form set forth in the Agreement
13 and this Order meets the requirements of due process, is the best notice practicable under the
14 circumstances, and shall constitute due and sufficient notice to all persons entitled thereto. The
15 Court orders the mailing of the Class Notice by first class mail, pursuant to the terms set forth in
16 the Agreement.

17 9. The Court hereby appoints ILYM Group, Inc. as Administrator. No later than
18 twenty (20) days after preliminary approval of the Settlement by the Court, Defendants shall
19 provide to the Administrator an electronic spreadsheet with the Class Data. The Administrator
20 will perform address updates and verifications as necessary prior to the mailing of the Class
21 Notice. Using best efforts to mail it as soon as possible, and in no event later than fourteen (14)
22 days after receiving the Class Data, the Administrator will mail the Class Notice Packets to all
23 Class Members via first-class U.S. Mail. Before mailing Class Notices, the Administrator shall
24 update Class Member addresses using the National Change of Address database.

25 10. The Court hereby preliminarily approves the proposed procedure for exclusion
26 from the Settlement. Any Class Member may individually choose to opt out of and be excluded
27 from the Class as provided in the Class Notice by following the instructions for requesting
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1 exclusion from the Class that are set forth in the Class Notice. All Requests for Exclusion must be
2 postmarked by no later than the Response Deadline, which is forty (45) calendar days after the
3 date of the mailing of the Class Notice and be received by the Administrator. If the Class Notice
4 Packet is re-mailed, the Response Deadline will be extended an additional 14 days. Any such
5 person who chooses to opt out of and be excluded from the Class will not be entitled to any
6 recovery under the Settlement and will not be bound by the class portion of the Settlement or have
7 any right to object, appeal or comment thereon. Class Members who have not requested exclusion
8 shall be bound by all determinations of the Court, the Agreement and the Judgment. A Request
9 for Exclusion may only opt out that particular individual, and any attempt to affect an opt out of a
10 group, class, or subclass of individuals is not permitted and will be deemed invalid. Subject to the
11 Court's final approval of the Settlement, the Aggrieved Employees will be paid their allocation of
12 the PAGA Penalties and will remain bound by the release of the Released PAGA Claims.

13 11. Any Class Member who has not opted out ("Participating Class Member") may
14 appear at the final approval hearing and may object or express the Member's views regarding the
15 Settlement and may present evidence and file briefs or other papers that may be proper and
16 relevant to the issues to be heard and determined by the Court as provided in the Notice.
17 Participating Class Members will have until the Response Deadline, which is forty-five (45)
18 calendar days from the date of the mailing of the Class Notices, to submit their written objections
19 to the Administrator in accordance with the instructions in the Class Notice. If the Class Notice
20 Packet is re-mailed, the Response Deadline for written objections will be extended an additional
21 14 days. Alternatively, Participating Class Members may appear at the Final Approval Hearing to
22 make an oral objection.

23 12. A Final Approval Hearing shall be held before this Court on August 29, 2025, 8:30
24 a.m. in Department 74 at the San Diego County Superior Court to determine all necessary matters
25 concerning the Settlement, including: whether the proposed settlement of the Action on the terms
26 and conditions provided for in the Agreement is fair, adequate and reasonable and should be
27 finally approved by the Court; whether the Final Approval Order and Judgment should be entered

1 herein; whether the plan of allocation contained in the Agreement should be approved as fair,
2 adequate and reasonable to the Class Members; and to finally approve attorneys' fees and costs,
3 the service awards, and the expenses of the Administrator. All papers in support of the motion for
4 final approval and for attorneys' fees, costs and service awards, to be heard at the Final Approval
5 Hearing, shall be filed with the Court and served on all counsel no later than sixteen (16) court
6 days before the hearing.

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

19 14. In the event the Settlement does not become effective in accordance with the terms
20 of the Agreement, or the Settlement is not finally approved, or is terminated, canceled or fails to
21 become effective for any reason, this Order shall be rendered null and void and shall be vacated,
22 and the Parties shall revert to their respective positions as of before entering into the Agreement,
23 and expressly reserve their respective rights regarding the prosecution and defense of this Action,
24 including all available defenses and affirmative defenses, and arguments that any claim in the
25 Action could not be certified as a class action and/or managed as a representative action. In such
26 an event, the Court's orders regarding the Settlement, including this Order, shall not be used or
27 referred to in litigation for any purpose.

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

5 16. The Action is stayed and all trial and related pre-trial dates are vacated, subject to
6 further orders of the Court at the Final Approval Hearing.

7 **IT IS SO ORDERED.**

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9 Dated: _____

HON. BLAINE K. BOWMAN
JUDGE, SUPERIOR COURT OF CALIFORNIA