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Attorneys for Plaintiff Iris Franco, on behalf of herself and all “aggrieved employees” pursuant to Labor Code § 2698 *et seq.*

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF NAPA

IRIS FRANCO, on behalf of herself and all
“aggrieved employees” pursuant to Labor
Code § 2698 *et seq.*,

Plaintiff,

v.

ACCLAIM HOME CARE, INC., a
California corporation, BROOKDALE
SENIOR LIVING COMMUNITIES, INC.,
a Delaware corporation, and DOES 1
through 10, inclusive,

Defendants.

CASE NO: 22CV001395

*Assigned to the Hon. Scott R.L. Young, Courtroom
B*

**STIPULATION AND [PROPOSED] ORDER
APPROVING SETTLEMENT OF PRIVATE
ATTORNEYS GENERAL ACT CLAIMS AND
DISMISSING ACTION WITH PREJUDICE**

Complaint Filed: November 15, 2022

STIPULATION

IT IS HEREBY STIPULATED BY AND BETWEEN THE PARTIES AS FOLLOWS:

1. On August 10, 2022, Plaintiff Iris Franco (“Plaintiff”) complied with the requirements set forth in Labor Code § 2698 *et seq.*, the Labor Code Private Attorneys General Act (hereinafter, “PAGA”) by sending a letter, by online submission to the Labor and Workforce Development Agency (“LWDA”) and by certified mail to Defendant Acclaim Home Care, Inc. (“Defendant Acclaim”), setting forth the facts and theories of the violations alleged against Defendant Acclaim. On September 7, 2022, Plaintiff sent another letter, by online submission to the LWDA and by certified mail, return receipt requested, to Defendant Acclaim and Defendant Brookdale Senior Living Communities, Inc. (“Defendant Brookdale”) (hereinafter, Defendant Acclaim and Defendant Brookdale are collectively referred to as “Defendants”) setting forth the facts and theories of the violations alleged against Defendants, as prescribed by Labor Code § 2698 *et seq.* (hereinafter Plaintiff and Defendants are collectively referred to as the “Parties”). (Declaration of Daniel F. Gaines [“Gaines Decl.”] at ¶¶ 6-7; Exhibit “B” and Exhibit “C” to Gaines Decl.).

2. Plaintiff filed her Representative Action Complaint on November 15, 2022 seeking penalties pursuant to Labor Code § 2699(f) for violations of Labor Code §§ 201, 202, 204, 221, 226(a), 226.7, 510, 512, 1174, 1174.5, 1194, and 2802 and penalties pursuant to Labor Code § 2699(a) for violations of Labor Code §§ 210, 225.5, 226.3 and 558 (“the Action”). (Gaines Decl. at ¶ 8).

3. During the course of the litigation, the Parties engaged in informal discovery and shared the information necessary for all sides to conduct a legitimate investigation into the allegations of the action and potential defenses thereto. The Parties have reached this settlement only after such discovery and investigation was performed. (Gaines Decl. at ¶¶ 9-11).

4. On May 23, 2023, the Parties mediated with well-respected mediator T. Warren Jackson, Esq., and reached a settlement of the Action which was memorialized in a Private Attorneys General Act (Labor Code § 2698 *et seq.*) Settlement Agreement signed by all Parties.

1 (Gaines Decl. at ¶ 12; Exhibit “D” thereto (the “Settlement Agreement”)).

2 5. The Parties engaged in arm’s-length negotiations and reached a resolution of all
3 claims asserted in the Action. Based on the information and documents obtained through informal
4 discovery and during mediation, Plaintiff assessed the maximum value of the PAGA claims
5 (without stacking) to be approximately \$350,900 (at the rate of a \$100 penalty for 3,509 total pay
6 periods at issue for approximately 292 aggrieved employees during the applicable time frame).
7 (Gaines Decl. at ¶¶ 12-15).

8 6. Defendants denied and continue to deny any liability to Plaintiff or any other
9 allegedly aggrieved employee for any violations alleged in the Action. (Gaines Decl. at ¶ 13).

10 7. The amount of the Settlement is \$247,700 which represents over 70% of the
11 maximum recoverable discretionary penalties and includes an apportionment of attorneys’ fees and
12 costs and a Service Award to Plaintiff. (Gaines Decl. at ¶ 16).

13 8. The Parties agree that the settlement amount represents a fair compromise of the
14 claims, including the related costs of litigation and risk. (Gaines Decl. at ¶¶ 13-16).

15 9. Based on their extensive experience litigating over 100 representative actions,
16 counsel for Plaintiff believes the Settlement here is fair and reasonable and warrants approval by
17 the Court. (Gaines Decl. at ¶¶ 2-5; Exhibit “A” to Gaines Decl.).

18 10. The Parties agree that this Stipulation should be sufficient for purposes of approving
19 the settlement of the Action as set out in the Settlement Agreement pursuant to the requirements
20 set out in Labor Code § 2699(1)(2). Accordingly, the Parties respectfully request that the Court enter
21 the accompanying Order, approving the Settlement (attached to the Gaines Decl. as Exhibit “D”),
22 as permitted by Labor Code § 2699(1), and dismissing this Action with prejudice. (Gaines Decl. at
23 ¶ 17).

24 11. The Parties further agree that, after entry of this Order and pursuant to California
25 Code of Civil Procedure § 664.6, the Court shall retain exclusive and continuing equity jurisdiction
26 of this Action over all Parties and PAGA Settlement Employees to interpret and enforce the terms,
27 conditions and obligation of the Agreement. (Gaines Decl. at ¶ 18).

12. Plaintiff has submitted a copy of the Settlement Agreement, together with this Stipulation, and Declaration of Daniel F. Gaines to the LWDA as required by PAGA. (Gaines Decl. at ¶ 19; Exhibit “E”).

IT IS SO STIPULATED.

ATTORNEYS FOR PLAINTIFF:

Dated: July 25, 2023

Respectfully submitted,

GAINES & GAINES
A Professional Law Corporation

By: *Daniel F. Gaines*
Daniel F. Gaines
Alex P. Katofsky

ATTORNEYS FOR DEFENDANTS:

Dated: July 25, 2023

LITTLER MENDELSON, P.C.

By: *MLN*
MICHAEL NELSON
Attorneys for Defendant Acclaim Home Care,
Inc.

Dated: July 25, 2023

LITTLER MENDELSON, P.C.

By: *SB*
SHANNON R. BOYCE
Attorneys for Defendant Brookdale Senior
Living Communities, Inc.

ORDER

The Court, having reviewed the Parties' the Private Attorneys General Act (Labor Code § 2698 *et seq.*) ("PAGA") Settlement Agreement (the "Settlement" or "Settlement Agreement") attached as Exhibit "D" to the concurrently filed Declaration of Daniel F. Gaines, together with the Stipulation of the Parties and exhibits attached thereto, hereby ORDERS:

1. This Order hereby adopts and incorporates by reference the terms and conditions of the Settlement Agreement.

2. The Court finds the Settlement was entered into in good faith, that the Settlement is fair, reasonable and adequate, and that the Settlement satisfies the standards and applicable requirements for approval of PAGA representative actions under California law.

3. The Court approves the penalties to be paid to the PAGA Settlement Employees and the State of California as set forth in the Settlement, pursuant to Labor Code § 2699(l). The Court further approves all payments to be made to Plaintiff's counsel, Plaintiff, and the Settlement Administrator, based on the terms of the Settlement.

4. Upon entry of this Order, the Parties and the Settlement Administrator shall effectuate all terms of the Settlement based on the provisions and timelines set forth in the Settlement Agreement.

5. The PAGA Settlement Employees shall release and forever discharge the Released Parties from the Released Claims during the PAGA Period, as set forth in the Settlement Agreement.

6. This Action is hereby DISMISSED WITH PREJUDICE.

7. Upon entry of this Order, the Parties shall effectuate all terms of the Settlement based on the provisions and timelines set forth in the Settlement Agreement.

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1 8. This Court shall retain exclusive and continuing equity jurisdiction of this Action
2 over all Parties and PAGA Settlement Employees to interpret and enforce the terms, conditions and
3 obligation of the Agreement.

4 **IT IS SO ORDERED.**

5
6 Dated: _____

JUDGE OF THE SUPERIOR COURT

1 **PROOF OF SERVICE AND CERTIFICATION**

2 I am employed in the County of Ventura State of California. I am over the age of 18 and not a party to the
3 within action; my business address is 4550 East Thousand Oaks Boulevard, Suite 100 Westlake Village, CA 91362.

4 _____ (For messenger) my business address is:

5 On July 26, 2023, I served the foregoing documents described as **(1) STIPULATION AND**
6 **[PROPOSED] ORDER APPROVING SETTLEMENT OF PRIVATE ATTORNEYS GENERAL ACT**
7 **CLAIMS AND DISMISSING ACTION WITH PREJUDICE** and **(2) DECLARATION OF DANIEL F.**
8 **GAINES IN SUPPORT OF STIPULATION AND [PROPOSED] ORDER APPROVING SETTLEMENT OF**
9 **PRIVATE ATTORNEYS GENERAL ACT CLAIMS AND DISMISSING ACTION WITH PREJUDICE** on
10 the interested parties in this action by placing a true copy thereof enclosed in sealed envelopes addressed as follows:

11 **Michael W. Nelson, Esq.**
12 **LITTLER MENDELSON P.C.**
13 **Treat Towers**
14 **1255 Treat Boulevard, Suite 600**
15 **Walnut Creek, CA 94597**
16 **Attorneys for Defendant Acclaim Home Care, Inc.**

17 **Shannon R. Boyce**
18 **LITTLER MENDELSON, P.C.**
19 **2049 Century Park East 5th Floor**
20 **Los Angeles, California 90067**
21 **Attorneys for Defendant BROOKDALE SENIOR LIVING COMMUNITIES, INC.**

22 On the above date:

23 ☒ (BY ☒ U.S. MAIL/ BY ☐ CERTIFIED MAIL, RETURN RECEIPT REQUESTED) The sealed envelope was
24 mailed with postage thereon fully prepaid. I am "readily familiar" with the firm's practice of collection and processing
25 correspondence for mailing. It is deposited with United States postal service on that same day in the ordinary course of
26 business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage
27 meter date is more than one day after date of deposit for mailing in affidavit.

28 _____ (BY FEDERAL EXPRESS OR OTHER OVERNIGHT SERVICE) I deposited the sealed envelope in a box or
other facility regularly maintained by the express service carrier or delivered the sealed envelope to an authorized
carrier or driver authorized by the express carrier to receive documents.

_____ (BY PERSONAL DELIVERY) By causing a true copy of the within document(s) to be personally hand-
delivered to the office(s) of the addressee(s) set forth above, on the date set forth above.

I certify that the above document was printed on recycled paper.
I declare under penalty of perjury that the foregoing is true and correct.
Executed on July 26, 2023, at Westlake Village, California.

29 Amelia Booth
30 AMELIA BOOTH