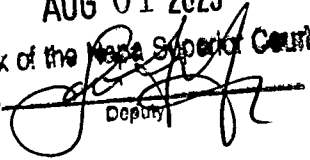


Rcvd: 7/26/2023 ST

FILED

AUG 01 2023

Clerk of the Napa Superior Court

By:  Deputy

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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(l)(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(l), 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).

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

4 **IT IS SO STIPULATED.**

5 **ATTORNEYS FOR PLAINTIFF:**

6 Dated: July 25, 2023

Respectfully submitted,

8 GAINES & GAINES
9 A Professional Law Corporation

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

11 **ATTORNEYS FOR DEFENDANTS:**

12 Dated: July 25, 2023

LITTLER MENDELSON, P.C.

13 By: Michael Nelson
14 MICHAEL NELSON
15 Attorneys for Defendant Acclaim Home Care,
16 Inc.

16 Dated: July 25, 2023

LITTLER MENDELSON, P.C.

17 By: Shannon R. Boyce
18 SHANNON R. BOYCE
19 Attorneys for Defendant Brookdale Senior
20 Living Communities, Inc.

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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: 7/31/23


JUDGE OF THE SUPERIOR COURT

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