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ELECTRONICALLY FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF TULARE

12/17/2024

STEPHANIE CAMERON, CLERK
Vanessa Minguela-Rodriguez, Deputy

Attorneys for Plaintiff and the aggrieved employees
[Additional Counsel Listed On Next Page]

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

ENVY AZEVEDO, an individual, on behalf
of herself and others similarly situated,

PLAINTIFF,

v.

TULARE NURSING & REHABILITATION
HOSPITAL, INC.; and DOES 1 thru 50,
inclusive,

DEFENDANTS.

Case No. VCU293325

[Case Assigned for All Purposes to Hon. David
C. Mathias in Dept. 1]

~~PROPOSED~~ **AMENDED ORDER**
GRANTING APPROVAL OF
REPRESENTATIVE ACTION
SETTLEMENT

Date: November 21, 2024

Time: 8:30 a.m.

Dept.: 1

Complaint Filed: September 14, 2022

Trial Date: None Set

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7 Attorneys for Plaintiff and the aggrieved employees
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PROPOSED AMENDED ORDER

The Motion for Approval of Representative Action Settlement (“Motion”) came before this Court on November 21, 2024, the Honorable David C. Mathias, presiding. The Court, having considered the papers submitted in support of the motion of the parties, and in accordance with the Court’s November 21, 2024 Tentative Ruling (“TR”), attached herein as Exhibit “A”, reflecting its entire ruling and other findings incorporated herein **HEREBY ORDERS THE FOLLOWING:**

Having considered Plaintiff’s Motion, and all legal authorities and documents submitted in support thereof, including the PAGA Settlement Agreement (“Agreement”), attached to the Declaration of Liane Katzenstein Ly as Exhibit “1”, and good cause appearing, IT IS HEREBY ORDERED that Plaintiff’s Motion is GRANTED, subject to the following findings and orders:

1. The Court finds the Settlement fair and reasonable.
2. The Court approves the Gross Settlement Amount of \$318,500.00.
3. The Court approves the PAGA Penalties in the amount of \$184,067.70.
4. The Court approves 75% of the PAGA Penalties being allocated to the LWDA in the amount of \$138,050.78.
5. The Court directs that the remaining 25% of the PAGA Penalties, in the amount of \$46,016.93 shall be allocated to the Aggrieved Employees.
6. The Court approves PAGA Counsel’s request for reimbursement of case costs in the amount of \$18,815.63 and attorneys’ fees in the amount of \$106,166.67.
7. The Court approves the settlement administration costs of \$4,450.00.
8. The Court approves the enhancement award for Plaintiff, in the amount of \$5,000.00, to Plaintiff ENVY AZEVEDO.
9. Pursuant to C.C.P §664.6, the Court shall have and retain continuing jurisdiction over this action and the Parties and the Aggrieved Employees including after the entry of this Order, to the fullest extent necessary to interpret, enforce and effectuate the terms and intent of the Agreement and this Order.

1 **DATED:** 12/17/2024



JUDGE OF THE SUPERIOR COURT

EXHIBIT "A"

Re: Azevedo, Envy vs. Tulare Nursing & Rehabilitation Hospital, Inc.
Case No.: VCU293325
Date: November 21, 2024
Time: 8:30 A.M.
Dept. 1-The Honorable David C. Mathias
Motion: Motion for Approval of PAGA Only Settlement

Tentative Ruling: To approve the settlement, as modified herein; to set a final compliance hearing as to distribution of the net settlement fund to the LWDA and Aggrieved Employees for May 22, 2025; D1; 8:30 am. CMC is off calendar.

1. Sufficiency of Amount of Settlement (Proposed Net Distribution to Aggrieved Employees: \$45,391.93.)

The gross settlement amount is \$318,500.

Plaintiff estimates approximately 406 aggrieved employees, consisting of all persons who are employed or have been employed as an hourly employee by Defendant TULARE NURSING & REHABILITATION HOSPITAL, INC. and TULARE HEALTHCARE & WELLNESS CENTER, LP, in the State of California who worked one or more pay periods during September 14, 2021 to May 6, 2024

Plaintiff brings claims under the PAGA statute for violations of Labor Code §§ 201, 202, 203, 204, 226(a), 210, 226.3, 226.7, 510, 512, 1174.5, 1194, 1197, 1197.1, 1198, 2802, and IWC Wage Order 5

In deciding whether to grant approval of the proposed PAGA settlement, the primary issues to be decided is whether the settlement is fair, adequate, and reasonable. (*Moniz v. Adecco USA, Inc.* (2021) 72 Cal.App.5th 56, 77.) “Because many of the factors used to evaluate class action settlements bear on a settlement’s fairness—including the strength of the plaintiff’s case, the risk, the stage of the proceeding, the complexity and likely duration of further litigation, and the settlement amount—these factors can be useful in evaluating the fairness of a PAGA settlement.” (*Id.*) “Given PAGA’s purpose to protect the public interest, we also agree with the LWDA and federal district courts that have found it appropriate to review a PAGA settlement to ascertain whether a settlement is fair in view of PAGA’s purposes and policies.” (*Id.* citing *O’Connor v. Uber Technologies, Inc.* (N.D. Cal. 2016) 201 F.Supp.3d 1110, 1133.)

Plaintiff’s counsel provides estimates of the maximum PAGA liability totaling \$1,274,000.00. Counsel further discusses the appropriate discount rates developed based upon the risk of non-recovery as to each alleged violation as well as the discretion of the Court to reduce the per pay period PAGA penalty. (Declaration of Ly ¶¶22-64) The motion adequately sets forth the relative strength and value of the PAGA claim as well as the risks, expense, complexity and likely duration of further litigation.

The parties reached a gross settlement figure of \$318,500 after mediation.

Plaintiffs’ deductions from the gross settlement of \$318,500 are proposed as follows:

Proposed Attorney Fees (33.3%):	\$ 106,166.67
Proposed Attorney Costs (incurred):	\$ 18,815.63
Proposed Enhancement Award to Plaintiff:	\$ 7,500.00
Administrative Costs	\$ 4,450.00
Net Settlement Fund	\$ 181,567.70
LWDA Share (75% of Net Settlement Fund)	\$ 136,175.78
Aggrieved Employee Share (25% of Net Settlement Fund):	\$ 45,391.93

The Court finds the gross settlement amount fair, adequate, and reasonable pursuant to *Moniz*.

2. Notice

There is no notice period. The proposed notice adequately informs the aggrieved employees of adequate details regarding the case and PAGA settlement.

3. Enhancement Awards to Class Representatives

An enhancement payment of \$7,500 is proposed to as to Plaintiff. The Court has, in past cases, approved enhancement awards of \$5,000 routinely.

While Plaintiff has provided a declaration detailing the involvement in this case from inception to settlement, the Court does not find that these efforts should result in an enhancement award greater than the typical amount awarded by this Court. The enhancement award of \$5,000 is approved. Further, this enhancement payment is consideration for execution of a wider release by Plaintiff.

4. Attorneys' Fees and Costs

Attorneys' fees of 33.3% of the gross settlement fund of \$318,500 or \$ 106,166.67 and costs up to \$22,000 are sought by Plaintiff's counsel.

Counsel has utilized the percentage of common fund methodology as well as provided adequate lodestar information to evaluate the reasonableness of the fee request.

As to Wilshire Law Firm, counsel indicates \$66,820 consisting of 95.6 hours at rates ranging from \$850 to \$450. (Declaration of Ysalas ¶¶22-27.)

As to Kingsley Szamet & Ly, counsel indicates \$40,660 consisting of 53 hours at rates from \$1,100 to \$450 per hour. (Declaration of Ly ¶106.)

Therefore, Plaintiffs state a base lodestar of \$107,480.

The Court, therefore, approves the requested fees, applying no multiplier to the lodestar to reach the amount requested.

Counsel has also provided the current costs expended in amounts of \$ 18,815.63 (Declaration of Yslas ¶18.)

The Court further finds that Plaintiff's counsel are experienced PAGA and Class Action attorneys through the declarations of counsel.

5. Claims Administrator

The claims administrator is designated as ILYM Group who has submitted a bid for \$4,450 to administer the settlement. The Court, based on its prior experience with ILYM and the Declaration of Mullins attached, approves it as the claims administrator.

6. Unclaimed Settlement Proceeds

The court approves the distribution of unclaimed settlement proceeds to the California Secretary of State's Unclaimed Property Division, in accordance with Code of Civil Procedure section 384.

7. Release

The Court finds the proposed limited release of PAGA claims reasonable and within the law under a PAGA only settlement as to the aggrieved employees. (*Arias v. Sup. Ct.*, (2009) 46 CA4th 969, 986-987.) Further, the Court notes that the Plaintiff's General Release term is supported by adequate consideration in the form of the enhancement and release payment, which the Court has approved above as \$5,000.

8. LWDA Notice

Counsel's declaration indicates confirmation from the LWDA of receipt of proof of submission of the proposed settlement agreement. (Lab. Code, § 2699, subd. (l)(2).) (Declaration of Ly ¶15 – Ex. 6.)

The Court, therefore, grants the motion and approves the deductions from the gross settlement fund of \$318,500 as follows:

Approved Attorney Fees (33.3%):	\$ 106,166.67
Approved Attorney Costs (incurred):	\$ 18,815.63
Approved Enhancement Award to Plaintiff:	\$ 5,000.00
Approved Administrative Costs	\$ 4,450.00
Approved Net Settlement Fund	\$184,067.70
Approved LWDA Share (75% of Net Settlement Fund)	\$138,050.78
Approved Aggrieved Employee Share (25% of Net Settlement Fund):	\$46,016.93

The Court sets a final compliance hearing as to distribution of the net settlement fund to the LWDA and Aggrieved Employees for May 22, 2025; D1; 8:30 am. CMC is off calendar. If no one requests oral argument, under Code of Civil Procedure section 1019.5(a) and California Rules of Court, rule 3.1312(a), no further written order is necessary. The minute order adopting this tentative ruling will become the order of the court and service by the clerk will constitute notice of the order.



State of California
Labor and Workforce Development Agency /
Department of Industrial Relations

Private Attorneys General Act (PAGA) – Filing

Proposed Settlement of PAGA case

PAGA Number (LWDA-CM-) : *

Please enter only the numbers after "LWDA-CM-" in the following format, "XXXXXXXX-XX".

[Search for PAGA Case number](#)

The timing of the deposit of settlement checks is governed by the provisions of the State Administrative Manual. This ministerial, administrative act of depositing a settlement check mandated by state procedures should not be construed as nor does it constitute an unconditional, voluntary and/or absolute acceptance of settlement proceeds or approval of the terms of any settlement agreement or judgment related to that check.

Your Information (Person Who is Filing)

Your First Name *



Your Last Name *

Your Email Address *

Your Street Name, Number and Suite/Apt *

Your Mobile Phone Number

Your City *

Your Work Phone Number

Your State *



Your Zip/Postal Code *

Court and Hearing Information

Court *

Tulare

Court Case Number *

VCU293325

Hearing Date (if any)

November 21, 2024

Hearing Time

8:30am

Hearing Location

Dept. 1

Number of aggrieved employees *

406

Gross settlement amount *

318,500.00

Gross penalty amount *

184,067.70

Penalties to LWDA *

138,050.78

Date of proposed settlement *

08/05/2024

Proposed Settlement and Other Documents

Proposed Settlement *

Choose File

Proposed Am...er – Tulare.pdf

Other Attachment (if any)

Choose File

Proposed Am...t – Tulare.pdf

[Add Another Attachment](#)

Should you have questions regarding this online form, please contact PAGInfo@dir.ca.gov

IMPORTANT NOTICE OF REDACTION RESPONSIBILITY: All filers must redact: Social Security or taxpayer identification numbers; personal addresses, personal telephone numbers, personal email addresses, dates of birth; names of minor children; & financial account numbers. This requirement applies to all documents, including attachments.

☒ I understand that, if I file, I must comply with the redaction rules consistent with this notice.

Previous Page

Submit

Thank you. If you provided an email address with your submission, a confirmation regarding your submission will be emailed to you. Otherwise, you can search for the case to verify that your submission was properly received.

[Click Here](#) to Search Case

From: DIR PAGA Unit <no-reply@formassembly.com>
Sent: Thursday, December 5, 2024 4:40 PM
To: Service Email
Subject: Thank you for your Proposed Settlement Submission

External Email!

12/05/2024 04:40:08 PM

Thank you for your submission to the Labor and Workforce Development Agency.

Item submitted: Proposed Settlement

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm

(PROOF OF SERVICE)
[CCP 1013(a)(3)]

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years and not a party to the within action. My business address is 16133 Ventura Boulevard, Suite 1200, Encino, California 91436.

On December 5, 2024, I served all interested parties in this action the following documents described as: **[PROPOSED] AMENDED ORDER GRANTING APPROVAL OF REPRESENTATIVE ACTION SETTLEMENT** by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

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Los Angeles, CA 90010

[XX] BY ELECTRONIC SERVICE: I caused a true and correct copy thereof to be electronically filed using the Labor and Workforce Development Agency Electronic Filing ("EF") System (<https://dir.tfaforms.net/315>) and service was completed by electronic means by transmittal of the documents referenced herein on the EF System.

[XX] (BY ELECTRONIC MAIL TRANSMISSION): I caused the document to be send to the persons at the e-mail address(es) listed on the attached service list. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful. A pdf copy of which was sent via email to the above email address(es).

[XX] (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on December 5, 2024, at Chino, California.



Leslie Sanchez