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Superior Court of California
County of Santa Cruz
April 23, 2025
Clerk of the Court by Deputy,
Campos, Erik



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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CRUZ**

MARIBEL AVALOS, individually, ISMENIA
MENDOZA, individually, and on behalf of all
others similarly situated,

Plaintiff,

vs.

CARE FROM THE HEART IN HOME
SERVICES, INC., a California corporation; and
DOES 1 through 10, inclusive,

Defendants

Case No. 22CV02124 (lead case) and
Case No. 22CV02801

CLASS AND REPRESENTATIVE ACTION

**[ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
ACTION AND PAGA SETTLEMENT**

*[Filed with the Declaration of Kane Moon,
Declaration of Mai Tulayatan, Declaration
of Larry W. Lee, Declaration of B. James
Fitzpatrick, Declaration of Plaintiff Maribel
Avalos, Declaration of Plaintiff Ismenia
Mendoza, and [Proposed] Preliminary
Approval Order]*

PRELIMINARY APPROVAL HEARING:

Date: April 22, 2025
Time: 8:30 a.m.
Dept.: 5

Action Filed: September 28, 2022
Trial Date: Not set

1 The Court has before it Plaintiffs' Motion for Preliminary Approval of Class Action and
2 PAGA Settlement. Having reviewed the Motion and Memorandum of Points and Authorities, the
3 supporting Declarations of Kane Moon, Mai Tulayatan, Larry W. Lee, B. James Fitzpatrick,
4 Plaintiff Maribel Avalos ("Plaintiff Avalos"), Plaintiff Ismenia Mendoza ("Plaintiff Mendoza"),
5 and good cause appearing,

6 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:**

7 1. The Court grants preliminary approval of the proposed Settlement and the
8 Settlement Class based upon the terms set forth in the Class Action and PAGA Settlement
9 Agreement and Class Notice (the "Settlement Agreement" or "Settlement") attached as Exhibit 1
10 to the Declaration of Kane Moon in Support of Plaintiffs' Motion for Preliminary Approval of
11 Class and PAGA Action Settlement. The Court finds on a preliminary basis that the Settlement
12 Agreement appears to be fair, adequate, and reasonable, and therefore, meets the requirements for
13 preliminary approval. The Court also preliminarily finds that the terms of the Settlement
14 Agreement appear to be within the range of possible approval, pursuant to California Code of
15 Civil Procedure section 382 and applicable law.

16 2. The Settlement falls within the range of reasonableness of a settlement which could
17 ultimately be given final approval by this Court, and appears to be presumptively valid, subject
18 only to any objections that may be raised at the Final Approval Hearing and final approval by this
19 Court. The Court notes that Defendant Care from the Heart, In Home Services, Inc. ("Defendant")
20 (together with Plaintiffs, the "Parties") agreed to create a common, non-reversionary gross fund
21 of at least \$330,000.00 (the "Gross Settlement Amount"), subject to an escalator clause and in
22 addition to Defendant's employer's payroll taxes owed on the wage portions of Individual Class
23 Payments, to cover (a) Individual Class Payments to Participating Class Members; (b) a Class
24 Counsel and Co-Counsel Fees Payment, not to exceed 33 1/3% of the Gross Settlement Amount;
25 (c) a Class Counsel Costs Payment, for reimbursement of actual litigation costs not to exceed
26 \$31,000.00; (d) an Administration Expenses Payment of up to \$12,000.00; (e) PAGA Penalties of
27 \$25,000.00 for settlement of claims for civil penalties under the Private Attorneys General Act,
28 Labor Code Sections 2698, *et seq.* ("PAGA"), and distributed as 25% (\$6,250.00) to the Aggrieved

1 Employees and 75% (\$18,750.00) to the California Labor and Workforce Development Agency
2 (the “LWDA”); and (f) a Class Representative Service Payments of up to \$10,000.00 to Plaintiff
3 Maribel Avalos and \$5,000.00 to Plaintiff Ismenia Mendoza.¹

4 3. The Court finds on a preliminary basis that: (1) the settlement amount is fair and
5 reasonable to the Class Members when balanced against the probable outcome of further litigation
6 relating to class certification, liability and damages issues, and potential appeals; (2) significant
7 informal discovery, investigation, research, and litigation have been conducted such that counsel
8 for the respective Parties at this time are able to reasonably evaluate their respective positions; (3)
9 settlement at this time will avoid substantial costs, delay, and risks that would be presented by the
10 further prosecution of the litigation; and (4) the proposed Settlement has been reached as the result
11 of serious, informed, adversarial, and arms-length negotiations between the Parties. Accordingly,
12 the Court preliminarily finds that the Settlement Agreement was entered into in good faith and
13 meets the requirements for preliminary approval.

14 4. A final approval hearing on the question of whether the proposed Settlement
15 Agreement, Class Counsel and Co-Counsel’s attorneys’ fees and costs, the PAGA Penalties, and
16 the Class Representative Service Payments should be finally approved as fair, reasonable, and
17 adequate as to the members of the Class is hereby set in accordance with the Implementation
18 Schedule set forth below.

19 5. The Court provisionally certifies, for settlement purposes only, the following class
20 (the “Settlement Class”): All persons who worked for Defendant in California as a non-exempt
21 employee at any time during the Class Period. The “Class Period” is September 28, 2018, through
22 October 15, 2024. Excluded from the Settlement Class are all Class Members who submit a valid
23 and timely request for exclusion from the Settlement pursuant to the instructions provided in the
24 Class Notice.

25
26
27 ¹ Pursuant to ¶ 4.3 of the Settlement Agreement, Defendant shall fully fund the Gross Settlement
28 Amount, and also fund the amounts necessary to fully pay Defendant’s share of payroll taxes, by
transmitting the funds to the Administrator no later than 14 calendar days after the date of “Effective Date,”
as that term is defined under the Settlement Agreement. (Settlement, ¶ 4.3.)

1 6. Release of Claims. Effective on the date when Defendant fully funds all amounts owed
2 under the Settlement, Plaintiff, Participating Class Members, and Aggrieved Employees release all claims
3 against the Released Parties as follows (Settlement, ¶ 5.):

4 a. Released Parties. “Released Parties” means: Defendant and each of its former, present,
5 and future owners, parents, and subsidiaries, and all of their current, former, and future officers,
6 directors, members, managers, employees, consultants, partners, shareholders, joint venturers,
7 agents, predecessors, successors, assigns, accountants, insurers, reinsurers, and/or legal
8 representatives. (*Id.* at ¶ 1.40.)

9 b. Plaintiffs’ Release. Plaintiffs and their respective former and present spouses,
10 representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and
11 discharge Released Parties from all claims, transactions, or occurrences, including, but not limited to: (a)
12 all claims that were, or reasonably could have been, alleged, based on the facts contained, in the Operative
13 Complaint and (b) all PAGA claims that were, or reasonably could have been, alleged based on facts
14 contained in the Operative Complaint and Plaintiff Avalos’ PAGA Notice. (“Plaintiffs’ Release.”)
15 Plaintiffs’ Release does not extend to any claims or actions to enforce this Agreement, or to any claims
16 for vested benefits, unemployment benefits, disability benefits, social security benefits, workers’
17 compensation benefits that arose at any time. Plaintiffs acknowledge that Plaintiffs may discover facts
18 or law different from, or in addition to, the facts or law that Plaintiffs now know or believe to be true but
19 agree, nonetheless, that Plaintiffs’ Release shall be and remain effective in all respects, notwithstanding
20 such different or additional facts or Plaintiffs’ discovery of them. (*Id.* at ¶ 5.1.1.)

21 1) Plaintiffs’ Waiver of Rights Under California Civil Code Section 1542. For
22 purposes of Plaintiffs’ Release, Plaintiffs expressly waive and relinquish the provisions, rights,
23 and benefits, if any, of section 1542 of the California Civil Code, which reads: A general
24 release does not extend to claims that the creditor or releasing party does not know or suspect
25 to exist in his or her favor at the time of executing the release and that, if known by him or her,
26 would have materially affected his or her settlement with the debtor or Released Party. (*Id.* at
27 ¶ 5.1.2.)

28 c. Release by Participating Class Members. All Participating Class Members, on behalf of

1 themselves and their respective former and present representatives, agents, attorneys, heirs,
2 administrators, successors, and assigns, release Released Parties from (i) all claims that were alleged, or
3 reasonably could have been alleged, based on the Class Period facts stated in the Operative Complaint
4 including, e.g., “ any and all claims involving: (1) any alleged failure to pay minimum wage; (2) any
5 alleged failure to pay overtime wages; (3) any alleged failure to provide compliant meal periods, or
6 compensation in lieu thereof; (4) any alleged failure to provide compliant rest breaks, or compensation
7 in lieu thereof; (5) any alleged failure to indemnify/reimburse necessary business expenses; (6) any
8 alleged failure to pay wages due upon separation; (7) any alleged failure to provide compliant accurate
9 itemized wage statements; and (8) any alleged unlawful, unfair, or fraudulent business actions or
10 practices under Business and Professions Code §§ 17200, *et seq.* arising out of the Labor Code and
11 Industrial Welfare Commission (“IWC”) Wage Order violations referenced in the Operative Complaint.
12 Except as set forth in Section 5.3 of this Agreement, Participating Class Members do not release any
13 other claims, including claims for vested benefits, wrongful termination, violation of the Fair
14 Employment and Housing Act, unemployment insurance, disability, social security, workers’
15 compensation, or claims based on facts occurring outside the Class Period. (*Id.* at ¶ 5.2.)

16 d. Release by Aggrieved Employees. All Aggrieved Employees are deemed to release, on
17 behalf of themselves and their respective former and present representatives, agents, attorneys, heirs,
18 administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that
19 were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the
20 Operative Complaint and the PAGA Notice including: (1) any alleged failure to pay minimum wage; (2)
21 any alleged failure to pay overtime wages; (3) any alleged failure to provide compliant meal periods, or
22 compensation in lieu thereof; (4) any alleged failure to provide compliant rest breaks, or compensation
23 in lieu thereof; (5) any alleged failure to indemnify/reimburse necessary business expenses; (6) any
24 alleged failure to pay wages due upon separation; and (7) any alleged failure to provide compliant
25 accurate itemized wage statements. (“Released PAGA Claims”). (*Id.* at ¶ 5.3.)

26 7. The Court, for purposes of this Preliminary Approval Order, refers to all terms and
27 definitions as set forth in the Settlement Agreement.

28 8. The Court finds, for settlement purposes only, that the Settlement Class meets the

1 requirements for certification under California Code of Civil Procedure section 382 in that: (1)
2 the Settlement Class is so numerous that joinder is impractical; (2) there are questions of law and
3 fact that are common, or of general interest, to all Settlement Class Members, which predominate
4 over individual issues; (3) Plaintiffs' claims are typical of the claims of the Settlement Class
5 Members; (4) Plaintiffs and Class Counsel will fairly and adequately protect the interests of the
6 Settlement Class Members; and (5) a class action is superior to other available methods for the
7 fair and efficient adjudication of the controversy.

8 9. The Court appoints, for settlement purposes only, Plaintiffs as the Class
9 Representatives. The Court approves, on a preliminary basis, payment of Class Representative
10 Service Payments from the Gross Settlement Amount of up to \$10,000.00 to Plaintiff Maribel
11 Avalos and \$5,000.00 to Plaintiff Ismenia Mendoza, in addition to the amount Plaintiffs are
12 eligible to receive as Class Members, for their contributions and participation in the litigation, for
13 the risks and duties attendant to their role as the Class Representatives, and for their general release
14 of claims, both known and unknown, and waiver of section 1542 rights. To the extent the final
15 amount awarded is less than the amount requested, the remainder will be retained in the Net
16 Settlement Amount for distribution to Participating Class Members.

17 10. The Court appoints, for settlement purposes only, Plaintiff Avalos' Counsel Moon
18 Law Group, PC as Class Counsel, and Plaintiff Mendoza's Counsel Fitzpatrick & Swanston and
19 Diversity Law Group, P.C. as Co-Counsel. The Court approves, on a preliminary basis, Class
20 Counsel and Co-Counsel's ability to request attorneys' fees of up to 33.1/3% of the Gross
21 Settlement Amount, as well as reimbursement for actual costs not to exceed \$31,000.00. To the
22 extent actual costs are less and/or the final amounts awarded for fees and/or costs are less than the
23 amounts requested, the remainder will be retained in the Net Settlement Amount for distribution
24 to Participating Class Members.

25 11. The Court appoints ILYM Group, Inc. as the Administrator with payment from the
26 Gross Settlement Amount for reasonable administration costs not to exceed \$12,000.00, except
27 upon a showing of good cause and as approved by the Court. To the extent administration costs
28 are less, the remainder will be retained in the Net Settlement Amount for distribution to

1 Participating Class Members. The Administrator shall perform services and duties as provided for
2 in the Settlement Agreement, including, but not limited to, mailing the Class Notice via first-class
3 U.S. Mail. Class Members shall not be required to submit a claim form in order to receive
4 individual settlement payments.

5 12. The Court approves Watsonville Law Center subject to the requirements of
6 California Code of Civil Procedure § 384.

7 13. The Court approves, as to form and content, the Class Notice attached to the
8 Settlement Agreement as Exhibit A. The Court finds, on a preliminary basis, that the plan for
9 distribution of the Class Notice satisfies due process, provides the best notice practicable under
10 the circumstances, and constitutes due and sufficient notice to all persons entitled thereto.

11 14. The obligations set forth in the Settlement Agreement are deemed part of this
12 Preliminary Approval Order, and the Parties and Administrator are ordered to carry out the
13 Settlement Agreement according to its terms and provisions.

14 15. The Court orders the following Implementation Schedule:

15 Defendant to provide the Administrator 16 with the Class Data	Within 15 calendar days after preliminary approval is granted
17 Administrator to mail the Class Notice	18 Within 14 calendar days after receiving the Class Data
19 Response and Opt-Out Deadline	20 Within 60 calendar days after mailing (plus 14 calendar days for any re-mailed 21 Notices)
22 Final Approval Motion Filing Deadline	23 At least 16 court days before the Final Approval Hearing:
24 Final Approval Hearing	25 September 3, 2025

26 16. The Court reserves the right to continue the date of the Final Approval Hearing without
27 further notice to Class Members.
28

1 17. The Court further orders that, pending further order of this Court, all proceedings in this
2 litigation, except those contemplated herein and in the Settlement Agreement, are stayed.

3 18. The Settlement Agreement is preliminarily approved but is not an admission by
4 Defendant of the validity of any claims in this class action, or of any wrongdoing by Defendant or of
5 any violation of law. Neither the Settlement Agreement nor any related document shall be offered or
6 received in evidence in any civil, criminal, or administrative action or proceeding other than as may
7 be necessary to consummate or enforce the Settlement Agreement.

8 19. The Court issued a tentative ruling preliminarily approving the settlement. Pursuant
9 to Local Rule 2.10.01, the tentative ruling is attached to this Proposed Order and Judgment as Exhibit
10 A.

11 **IT IS SO ORDERED.**

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13
14 DATED: April 22, 2025



The Honorable Rebecca Connolly
Judge of the Superior Court, Santa Cruz County

EXHIBIT A

LAW AND MOTION TENTATIVE RULINGS

DATE: APRIL 22, 2025 TIME: 8:30 A.M.

TENTATIVE RULINGS ARE NOT POSTED IN UNLAWFUL DETAINER CASES

Nos. 22CV02124, 22CV02801

AVALOS, MENDOZA v. CARE FROM THE HEART

(UNOPPOSED) MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT

The motion is granted.

The court finds that the settlement falls within a range of reasonableness and is presumptively valid; appears to be a product of serious, informed and non-collusive negotiations; and has no obvious deficiencies. The court grants preliminary approval of the settlement; conditionally certifies the class; approves the class notice as to form and content; and adopts the Proposed Order Granting Preliminary Approval of Class Action and PAGA Settlement submitted by class counsel.

Counsel should appear on Zoom to set a fairness hearing on the question of whether the proposed class action settlement, class counsel's fees and expenses, the class representative's enhancement award, and the administrator's fees and costs should be finally approved as fair, reasonable and adequate as to the members of the settlement class.

Notice to prevailing parties: Local Rule 2.10.01 requires you to submit a proposed formal order incorporating, verbatim, the language of any tentative ruling – or attaching and incorporating the tentative by reference - or an order consistent with the announced ruling of the Court, in accordance with California Rule of Court 3.1312. **Such proposed order is required even if the prevailing party submitted a proposed order prior to the hearing** (unless the tentative is simply to “grant”). Failure to comply with Local Rule 2.10.01 may result in the imposition of sanctions following an order to show cause hearing, if a proposed order is not timely filed.

No. 24CV01494

JOAQUIN v. GARCIA

(UNOPPOSED) PLAINTIFF'S MOTION TO BE RELIEVED

The motion is granted. The court will sign the order submitted by counsel.

LAW AND MOTION TENTATIVE RULINGS

DATE: APRIL 22, 2025 TIME: 8:30 A.M.

Notice to prevailing parties: Local Rule 2.10.01 requires you to submit a proposed formal order incorporating, verbatim, the language of any tentative ruling – or attaching and incorporating the tentative by reference - or an order consistent with the announced ruling of the Court, in accordance with California Rule of Court 3.1312. **Such proposed order is required even if the prevailing party submitted a proposed order prior to the hearing** (unless the tentative is simply to “grant”). Failure to comply with Local Rule 2.10.01 may result in the imposition of sanctions following an order to show cause hearing, if a proposed order is not timely filed.

STATE OF CALIFORNIA)
) ss
COUNTY OF LOS ANGELES)

**[PROPOSED] ORDER GRANTING PRELIMINARY APPROVAL OF CLASS ACTION AND
PAGA SETTLEMENT**

X by E-mailing the original X a true copy to the following:

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Attorney for Defendant CARE FROM THE HEART IN HOME SERVICES, INC.

[✓] **BY E-MAIL:** I hereby certify that this document was served from Los Angeles, California, by e-mail delivery on the parties listed herein at their most recent known e-mail address or e-mail of record in this action.

X (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on **April 21, 2025**, at Los Angeles, California.

Katherine So

/S/ Katherine So

Name

Signature