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and on behalf of all others similarly situated

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

MONICA GARCIA, individually, and on behalf
of all others similarly situated,

Plaintiff,

v.

COMPASSIONATE HEART SENIOR CARE,
INC. DBA HOME INSTEAD SENIOR CARE, a
California corporation; and DOES 1 through 10,
inclusive,

Defendants.

Case No.: 30-2022-01294409-CU-OE-CXC
Related Case No. 30-2023-01349739-CU-OE-
CXC

Assigned for all purposes to:
Hon. Lon Hurwitz, Dept. CX-103

**[PROPOSED] ORDER GRANTING
PLAINTIFFS' MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

Date: October 18, 2024
Time: 1:30 p.m.
Dept: CX-103

1 **[PROPOSED] ORDER**

2 Having reviewed Plaintiff Monica Garcia's ("Plaintiff") Motion for Preliminary
3 Approval of Class Action Settlement, the Declaration of John G. Yslas, the Supplemental
4 Declaration of John G. Yslas, Plaintiff's declaration, the Declaration of Robert E. King, the
5 Declaration of Joel Van Parys, the Declaration of David Rezner, and the Class Action and PAGA
6 Settlement Agreement and Class Notice ("Settlement Agreement"), and good cause appearing,
7 the Court finds and orders as follows:

8 1. The Court finds on a preliminary basis that the Settlement Agreement appears to
9 be fair, adequate, and reasonable and therefore meets the requirements for preliminary approval.
10 The Court grants preliminary approval of the Settlement and the Settlement Class based on the
11 terms set forth in the Settlement Agreement between Plaintiff and Defendant Compassionate
12 Heart Senior Care, Inc. dba Home Instead Senior Care ("Compassionate Heart"), attached to the
13 Supplemental Declaration of John G. Yslas in Support of Plaintiff's Motion for Preliminary
14 Approval of Class Action Settlement as **Exhibit 2**. See Register of Actions No. 74.

15 2. The Settlement falls within the range of reasonableness of a settlement which
16 could ultimately be given final approval by this Court, and appears to be presumptively valid,
17 subject only to any objections that may be raised at the Final Approval Hearing and final
18 approval by this Court. The Court notes that Defendant has agreed to create a common fund of
19 \$185,000.00 to cover (a) settlement payments to Class Members who do not validly opt out; (b)
20 a \$10,000.00 allocation toward civil penalties under the Private Attorneys General Act, 75% of
21 which (\$7,500.00) will be paid to the State of California, Labor & Workforce Development
22 Agency and 25% of which (\$2,500.00) will be paid to eligible Aggrieved Employees; (c) Class
23 Representative service payment of up to \$10,000.00 to Plaintiff; (d) Class Counsel's attorneys'
24 fees, not to exceed 33.3% of the Gross Settlement Amount (i.e., \$61,605.00), and up to
25 \$9,000.00 in costs for actual litigation expenses incurred by Class Counsel; and (e) Settlement
26 Administration Costs of up to \$7,950.00.

27 3. The Court preliminarily finds that the terms of the Settlement appear to be within
28 the range of possible approval, pursuant to California Code of Civil Procedure § 382 and

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

11 4. A final fairness hearing on the question of whether the proposed Settlement,
12 attorneys' fees and costs to Class Counsel, payment to the State of California, Labor &
13 Workforce Development Agency for its share of the settlement of claims for penalties under the
14 Private Attorneys General Act, and the class representatives' enhancement awards should be
15 finally approved as fair, reasonable and adequate as to the members of the Class is hereby set
16 in accordance with the Implementation Schedule set forth below.

17 5. The Court provisionally certifies for settlement purposes only the following class
18 (the "Class"): "all persons employed by Compassionate Heart in California and classified as an
19 hourly-paid or non-exempt employees who worked for Compassionate Heart during the Class
20 Period."

21 6. "Class Period" means the period from June 5, 2018 through October 18, 2024.

22 7. The Court finds, for settlement purposes only, that the Settlement Class meets the
23 requirements for certification under California Code of Civil Procedure § 382 in that: (1) the
24 Settlement Class Members are so numerous that joinder is impractical; (2) there are questions
25 of law and fact that are common, or of general interest, to all Settlement Class Members, which
26 predominate over individual issues; (3) Plaintiffs' claims are typical of the claims of the
27 Settlement Class Members; (4) Plaintiffs and Class Counsel will fairly and adequately protect
28 the interests of the Settlement Class Members; and (5) a class action is superior to other

1 available methods for the fair and efficient adjudication of the controversy.

2 8. The Court appoints as Class Representatives, for settlement purposes only,
3 Plaintiff. The Court further preliminarily approves Plaintiffs' ability to request an incentive
4 award up to \$10,000.00.

5 9. The Court appoints, for settlement purposes only, John G. Yslas, Jeffrey C. Bills,
6 Aram Boyadjian, and Andrew Sandoval of Wilshire Law Firm, PLC, as Class Counsel. The
7 Court further preliminarily approves Class Counsel's ability to request attorneys' fees of up to
8 one-third of the Total Settlement Amount (i.e., \$61,605.00), and costs not to exceed \$9,000.00.

9 10. The Court appoints ILYM Group, Inc. as the Settlement Administrator with
10 reasonable administration costs estimated not to exceed \$7,950.00.

11 11. The Court approves, as to form and content the Class Notice, attached to the
12 Settlement Agreement. The Court finds on a preliminary basis that plan for distribution of the
13 Notice to Settlement Class Members satisfies due process, provides the best notice practicable
14 under the circumstances, and shall constitute due and sufficient notice to all persons entitled
15 thereto.

16 12. The Parties are ordered to carry out the Settlement according to the terms of the
17 Settlement Agreement.

18 13. Any Class Member who does not timely and validly request exclusion from the
19 Settlement may object to the Settlement Agreement.

20 14. The Court orders the following Implementation Schedule:

22 EVENT:	DEADLINE:
23 Defendant to provide Class List to the 24 Settlement Administrator	November 18, 2024
25 Settlement Administrator to mail the Notice 26 Packets	December 2, 2024
27 Class Member Response Deadline	January 31, 2025

EVENT:	DEADLINE:
Class Member Deadline to Object	January 31, 2025
Deadline for Administrator to Submit Report	February 14, 2025
Deadline to file Motion for Final Approval, Request for Attorney's Fees and Costs, and Service Awards to Plaintiff	[proposed] February 20, 2025
Final Approval Hearing [proposed]	[proposed] March 14, 2025 at 1:30 p.m.

15. The Court further ORDERS that, pending further order of this Court, all proceedings in this lawsuit, except those contemplated herein and in the settlement, are stayed.

IT IS SO ORDERED.

DATE:

Hon. Lon F. Hurwitz
Orange County Superior Court