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15 and on behalf of all others similarly situated

16
17 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
18 **FOR THE COUNTY OF ORANGE**
19

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

22 Plaintiff,

23 v.

24 COMPASSIONATE HEART SENIOR CARE
25 INC. DBA HOME INSTEAD SENIOR CARE;
26 and DOES 1 through 10, inclusive,

27 Defendants.
28

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

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

**SUPPLEMENTAL SUBMISSION IN
SUPPORT OF PLAINTIFF'S MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

PRELIMINARY APPROVAL HEARING

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

TO THE COURT, TO ALL PARTIES, AND THEIR COUNSEL OF RECORD:

Plaintiff Monica Garcia (“Plaintiff”) provides this supplemental submission in response to the Court’s ruling on Plaintiff’s Motion for Preliminary Approval of Class Action Settlement, originally scheduled for hearing on August 23, 2024. On August 23, 2024, the Court continued the hearing to October 18, 2024 at 1:30 p.m., with instructions to address the following concerns:

Ruling	Revisions/Submissions
As to the Settlement:	
1. The Court requires declaration(s) from Defendant and its counsel to confirm whether there any other actions (class, individual, or PAGA, including PAGA actions in the pre-filing LWDA stage) that could be affected by this settlement.	Filed concurrently herewith are the declarations of Defendant and its counsel confirming that there are no other actions that could be affected by this settlement. <i>See</i> Declaration of David Rezner, Declaration of Joel Van Parys, and Declaration of Robert E. King.
2. Disputes as to the Administrator’s calculations should be 60 days. Stip. ¶ 14.	The Parties have executed an Amended Joint Stipulation of Class and PAGA Settlement which changes the “Disputes Deadline” to 60 days. <i>See</i> Supplemental Declaration of John G. Yslas in Support of Plaintiff’s Motion for Preliminary Approval of Class Action Settlement (“Supp. Yslas Decl.”) at ¶¶ 3-4, Exhibits 1-2 at ¶ 14.
3. There are no facts offered to support the assertions regarding investigation. Decl. ¶ 15. For example, there is no discussion of documents or other evidence examined and how, if at all, such	Plaintiff’s Counsel has provided a supplemental explanation of the investigation conducted prior to reaching a settlement in this matter. <i>See</i> Supp. Yslas Decl. at ¶ 5.

1	evidence is representative of either	
2	the class or representative claims.	
3	4. Please briefly describe the	Plaintiff's Counsel has provided a supplemental
4	circumstances, including any	explanation of the circumstances that resulted in
5	mediation, that resulted in	settlement. <i>See</i> Supp. Yslas Decl. at ¶ 6.
6	settlement.	
7	5. The average regular rate used in the	Plaintiff's Counsel has provided a supplemental
8	valuation was \$15 "based on	explanation of the average regular rate used in the
9	Plaintiff's experience". Decl. ¶ 16.	valuation and what the average and range of
10	What was the average and range of	salaries of the class and PAGA employees. <i>See</i>
11	salaries of the class and PAGA	Supp. Yslas Decl. at ¶ 7.
12	employees?	
13	6. How were Defendant's financial	Plaintiff's Counsel has provided a supplemental
14	circumstances or "inability to pay"	explanation of how Defendant's financial
15	factored into the settlement and what	circumstances or inability to pay factored into the
16	evidence supported any discounting	settlement and what evidence supported any
17	based on those circumstances? See,	discounting based on those circumstances. <i>See</i>
18	e.g., Decl. ¶ 19.	Supp. Yslas Decl. at ¶¶ 8-9.
19	7. As to the valuation of all wages, why	Plaintiff's Counsel has provided a supplemental
20	was only one hour assumed and how	explanation of why one hour was assumed in the
21	does the \$15 rate account for	valuation of all wages and how the \$15 rate
22	overtime?	accounts for overtime. <i>See</i> Yslas Decl. at ¶ 10.
23	8. As to the valuation of meal breaks	Plaintiff's Counsel has provided a supplemental
24	and rest breaks, why were five	explanation of why five meal and rest break
25	violations per week assumed?	violations were assumed per week. <i>See</i> Supp.
26		Yslas Decl. at ¶ 11.
27	9. There is no valuation provided for	Plaintiff's Counsel has provided a supplemental
28		

1	the reimbursement claim, so why	explanation of the valuation of the reimbursement
2	should this claim be included in the	claim and why it should be included in the
3	releases?	releases. <i>See</i> Supp. Yslas Decl. at ¶ 12.
4	10. As to wage statements and waiting	Plaintiff's Counsel has provided a supplemental
5	time valuations, why do inaccurate	explanation as to how wage statement penalties
6	wage statement penalties only apply	were applied, the authority supporting the
7	to 55 current employees What is the	assertion that the Court may exercise discretion to
8	authority supporting the assertion a	reduce these penalties, and why the reduction is
9	court may exercise discretion to	95%. <i>See</i> Supp. Yslas Decl. at ¶ 13.
10	reduce these penalties and, to the	
11	extent there is such authority, why	
12	95%?	
13	11. As to the PAGA valuation, why	Plaintiff's Counsel has provided a supplemental
14	were 52 pay periods used? This does	explanation of how PAGA pay periods were
15	not cover the PAGA Period. Stip. ¶	calculated and how many PAGA Members there
16	27. How many PAGA Members are	are. <i>See</i> Supp. Yslas Decl. at ¶ 14.
17	there?	
18	12. The Settlement should provide the	The proposed Amended Joint Stipulation of Class
19	Court will make the final	and PAGA Settlement provides that the Court will
20	determination as to disputes. Stip. ¶	make the final determination as to disputes. <i>See</i>
21	65.	Supp. Yslas Decl. at ¶¶ 3-4, Exhibits 1-2 at ¶
22		65(A).
23	13. At final approval, please submit	Plaintiff's Counsel will submit
24	contemporaneously made billing	contemporaneously made billing records for
25	records for attorney's fees and costs.	attorney's fees and costs at final approval. <i>See</i>
26		Supp. Yslas Decl. at ¶ 15.
27	14. At final approval, Plaintiff is to	Plaintiff will submit a declaration at final
28		

1 2 3 4 5 6 7 8	provide a declaration assessing the enhancement factors set forth in <i>Golba v. Dick's Sporting Goods, Inc.</i> (2015) 238 Cal.App.4th 1251 and <i>Clark v. Am. Residential Servs. LLC</i> (2009) 175 Cal.App.4th 785, including the amount of time and effort spent on the litigation.	approval assessing the enhancement factors set forth under relevant case law, including the amount of time and effort spent on the litigation. Supp. Yslas Decl. at ¶ 16.
9 10 11 12 13	15. At final approval, the administrator is to provide a high, low, and average for individual settlement payments, along with Plaintiff's individual payouts.	The administrator will provide a high, low, and average for individual settlement payments, along with Plaintiff's individual payouts at final approval. Supp. Yslas Decl. at ¶ 17.
14	As to the Notice:	
15 16 17	16. Please include opt-out and workweek dispute forms with the notice.	The Parties have included opt-out and workweek dispute forms with the notice. Supp. Yslas Decl. at ¶¶ 18-19, Exhibits 3-4.
18 19 20	17. Provide information as to unclaimed funds, i.e., California State Controller's office.	The Parties have provided information as to unclaimed funds. Supp. Yslas Decl. at ¶ 20, Exhibit 5.
21 22 23	18. The dispute language needs to reflect the Court's ultimate authority.	The Parties have revised the dispute language to reflect the Court's ultimate authority. Supp. Yslas Decl. at ¶ 20, Exhibit 5.
24 25 26 27	19. If any changes are made to the settlement agreement, please make corresponding changes to the notice.	The Parties have ensured that changes made to the settlement agreement have corresponded with the proposed notice. Supp. Yslas Decl. at ¶ 20, Exhibit 5.

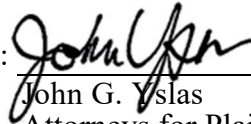
1 20. The font size in the actual notice
2 may not be smaller than the font size
3 in the proposed notice provided to
4 the Court.

The Parties will ensure the font size in the actual
notice is not smaller than the font size in the
proposed notice provided to the Court. Supp.
Yslas Decl. at ¶ 20.

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6
7 Dated: October 4, 2024

WILSHIRE LAW FIRM

8 By:



John G. Yslas

Attorneys for Plaintiff Monica Garcia