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FILED
Superior Court of California
County of Los Angeles
05/28/2025

David W. Stoyan, Executive Officer / Clerk of Court
By: P. Herrera Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE

DULCE MAGALLANES, individually, and on
behalf of all others similarly situated,

Plaintiff,

v.

BIOCAIR, INC., an unknown entity; and DOES
1 through 10, inclusive,

Defendants.

Case No.: 23STCV07027

**CLASS AND REPRESENTATIVE
ACTION**

[Assigned for all purposes to: Hon. Elihu M.
Berle, Dept. 6]

**[PROPOSED] REVISED ORDER
GRANTING PLAINTIFF'S MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

PRELIMINARY APPROVAL HEARING

Date: May 15, 2025

Time: 9:00 a.m.

Dept: 6

Complaint filed: April 13, 2023

FAC filed: July 17, 2023

Trial date: Not set

1 The Court has before it Plaintiff Dulce Magallanes' ("Plaintiff") Motion for Preliminary
2 Approval of Class Action Settlement. Having reviewed the Motion for Preliminary Approval
3 of Class Action Settlement, the Declaration of Justin F. Marquez, the Class Action and PAGA
4 Settlement Agreement and Class Notice (which is referred to here as the "Settlement
5 Agreement"), and good cause appearing, the Court hereby finds and orders as follows:

6 1. The Court finds on a preliminary basis that the Settlement Agreement appears to
7 be fair, adequate, and reasonable and therefore meets the requirements for preliminary approval.
8 The Court grants preliminary approval of the Settlement and the Settlement Class based upon
9 the terms set forth in the Settlement Agreement between Plaintiff Dulce Magallanes and
10 Defendant Biocair, Inc. ("Defendant"), attached to the Declaration of Justin F. Marquez in
11 Support of Plaintiff's Motion for Preliminary Approval of Class Action Settlement as Exhibit
12 1.

13 2. The Settlement falls within the range of reasonableness of a settlement which
14 could ultimately be given final approval by this Court, and appears to be presumptively valid,
15 subject only to any objections that may be raised at the Final Approval Hearing and final
16 approval by this Court. The Court notes that Defendant has agreed to create a common fund of
17 \$275,000.00 to cover (a) settlement payments to class members who do not validly opt out; (b)
18 a \$20,000.00 payment to the State of California, Labor & Workforce Development Agency for
19 its share of the settlement of claims for penalties under the Private Attorneys General Act, with
20 75% of which (\$15,000.00) will be paid to the LWDA and 25% (\$5,000.00) will be paid to
21 eligible Aggrieved Employees; (c) Class Representative service payment of up to \$10,000.00
22 for Plaintiff Dulce Magallanes; (d) Class Counsel's attorneys' fees, not to exceed 33 1/3% of
23 the Gross Settlement Amount (\$91,666.67), and up to \$20,000.00 in costs for actual litigation
24 expenses incurred by Class Counsel; and (e) Settlement Administration Costs of up to
25 \$6,500.00.

26 3. The Court preliminarily finds that the terms of the Settlement appear to be within
27 the range of possible approval, pursuant to California Code of Civil Procedure § 382 and
28 applicable law. The Court finds on a preliminary basis that: (1) the settlement amount is fair

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

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

16 5. The Court provisionally certifies for settlement purposes only the following class
17 (the "Settlement Class"): "all hourly-paid, non-exempt employees who, during the Class Period,
18 have previously or currently are employed in California by Defendant, as an hourly-paid, non-
19 exempt employee."

20 6. "Class Period" means the period from March 30, 2019 through February 2, 2024.

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

1 8. The Court appoints as Class Representative, for settlement purposes only,
2 Plaintiff Dulce Magallanes. The Court further preliminarily approves Plaintiff's ability to
3 request an incentive award up to \$10,000.00.

4 9. The Court appoints, for settlement purposes only, Benjamin H. Haber and Daniel
5 J. Kramer of Wilshire Law Firm, PLC as Class Counsel. The Court further preliminarily
6 approves Class Counsel's ability to request attorneys' fees of up to one-third of the Total
7 Settlement Amount (\$91,666.67), and costs not to exceed \$20,000.00.

8 10. The Court appoints Phoenix Settlement Administrators as the Settlement
9 Administrator with reasonable administration costs estimated not to exceed \$6,500.00.

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

15 12. The parties are ordered to carry out the Settlement according to the terms of the
16 Settlement Agreement.

17 13. Any class member who does not timely and validly request exclusion from the
18 settlement may object to the Settlement Agreement.

19 14. The Court orders the following Implementation Schedule:

20

21 Defendants to provide Class List to the	
22 Settlement Administrator	June 5, 2025
23 Settlement Administrator to mail the Notice	
24 Packets	June 19, 2025
25 Response Deadline/ Opt Out Deadline	August 19, 2025
26 Deadline to Provide Written Objections, if	
27 any	August 19, 2025

28

Deadline to file Motion for Final Approval, Request for Attorney's Fees and Costs, and Service Award to Plaintiff	July 18, 2025
Deadline for Administrator to Submit Final Report regarding Opt-Outs and for Responses to Objections	September 9, 2025
Final Approval Hearing	September 23, 2025 at 10:00 a.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.



Elihu M. Berle

DATE: 05/28/2025

Elihu M. Berle / Judge

Hon. Elihu M. Berle
Los Angeles County Superior Court

PROOF OF SERVICE
Magallanes v. Biocair Inc., et al.
23STCV07027

STATE OF CALIFORNIA)
) ss
COUNTY OF LOS ANGELES)

I, Rebecca Padilla, state that I am employed in the aforesaid County, State of California; I am over the age of eighteen years and not a party to the within action; my business address is 3055 Wilshire Blvd., 12th Floor, Los Angeles, California 90010. My electronic service address is rebecca.padilla@wilshirelawfirm.com.

On May 22, 2024, I served the foregoing **[PROPOSED] ORDER GRANTING PLAINTIFF'S MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**, on the interested parties by placing a true copy thereof, enclosed in a sealed envelope by following one of the methods of service as follows:

Matthew C. Sgnilek, Esq. (SBN 235299)
msgnilek@ohaganmeyer.com
Andrea Rosenkranz, Esq. (SBN 301559)
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Facsimile: (949) 942-8510

Attorneys for Defendant

(X) **BY ELECTRONIC SERVICE:** Based on a court order or an agreement of the parties to accept electronic service, I caused the documents to be sent to the persons at the electronic service addresses listed above via third-party cloud service **CASEANYWHERE.**

I declare under the penalty of perjury under the laws of the State of California, that the foregoing is true and correct.

Executed on May 22, 2024, at Los Angeles, California.



Rebecca Padilla